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INDUSTRIAL RELATIONS COUNCIL

1990

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February 28, 1991

The Honourable James T. Rabbitt
Minister of Labour and Consumer Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Minister:

Herewith the Annual Report of the Industrial Relations Council, for the year ended December 31, 1990.

Respectfully submitted,

Edward R. Peck
Commissioner

:msf
encl

COMMISSIONER'S MESSAGE

1990 marked an unusually quiet period in terms of B.C. labour relations. As the year drew to a close there were less than 100 employees remaining on strike in the Province, affecting only three employers. 1990 was also the year in which the Council experienced its third anniversary, and in which the Adjudication Division and the Registry were faced with lengthy hearings and increasingly complex legal issues. Notwithstanding this development, I am pleased to report that in terms of the overall experience of the Council and its predecessor Labour Relations Board, the files outstanding at year end were in the most current state ever recorded. Indeed, only three files remained outstanding from previous years. The balance, or 135 files, were 1990 cases; of these only 37 were over four months old.

November of this year saw the publication of the first issue of the Dispute Resolution Division's Collective Bargaining Information Summary of data and statistics respecting labour relations, employment and bargaining in B.C. Many labour relations practitioners and law firms have now subscribed to this source of information, and interest has been evidenced by many more in the labour relations community. The service offered by the Disputes Resolution Division will be extremely helpful to the parties and the Council next year during which we may witness the most extensive confrontation in collective bargaining in a decade.

Quicklaw now provides full access to our labour law library and by early spring will also provide access by computer to all IRC Decisions dating back to 1987, and LRB decisions dating back to 1974. Also, our library now houses 3,500 active collective agreements, and continues to be an excellent resource centre for trade unions, employers and legal practitioners, as well as students and others in the community.

It is with sadness that we recall the death of Robert Arseneau, Vice Chairman, in March after a sudden illness. Bob was a strong and decisive adjudicator and will be missed by his colleagues at the Council and others in the labour relations community. Another Vice Chairman, Catherine Bruce, left during the year to pursue other interests. Two new Vice Chairmen were recruited: Emily Burke, who served as a staff lawyer with the Labour Relations Board, and as legal counsel with the law firm of Alexander, Holburn, Beaudin and Lang; and Martin Levinson, a veteran legal advocate who represented trade union clients in Ontario for years prior to moving to B.C., and coauthored (with Jeffrey Sacks) the principal text on Ontario Labour Relations Board Practice (1973).

The ranks of Council Members were strengthened by the addition of four new Order-In-Council appointees: Brigid Lumholst-Smith, George Richardson and Bob Saunders representing employers, and Pamela Moore and Ken Scott representing employees. (For their particulars see page 16.) The Council is grateful for the significant contribution of three original Members who left during the year - Jane Grimwood, Arthur Broomhall, and Duncan Wilkins.

Once again I conclude by expressing my gratitude to all officers, Members and staff of the Council, as well as Industrial Relations officers of the Ministry of Labour for their hard work and effectiveness on behalf of this administrative tribunal. It is due to their combined efforts that the council has attained a high level of competence in minimizing delays and rendering quality service in both adjudication and dispute resolution activities.

Back Row (left to right) Members: Monty Alton, John Donaldson, Ken Scott, Tony Poje, Bryan Denton, George Richardson, Bob Saunders, Peter Richardson

Middle Row (left to right) Members: Brigid Lumholst-Smith, Clare Alcott, Jack Adams
Vice-Chairmen: Walter Pylypchuk, Joe Crowder, Barry Goff, Richard Longpre, Martin Levinson
Members: Mark Leffler, Ken Andrews, Pamela Moore

Front Row (left to right) Shelley Nitikman, Vice-Chairman, Paul Devine, Registrar, Heather McDonald, Vice-Chairman, Edward R. Peck, Commissioner, Ken Albertini, Chairman, Adjudication Division, Darwin Benson, Chairman, Disputes Resolution Division, Nora Paton, Vice-Chairman

Absent: Emily Burke, Vice-Chairman

1 THE COUNCIL

Section 27(1) of the *Industrial Relations Act* (the "Act") reads as follows:

> 27.(1) The council, having regard to the public interest as well as the rights of individuals and the rights and obligations of the parties before it and recognizing the desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy, shall exercise the powers and perform the duties conferred or imposed on it under this Act so as to achieve the expeditious resolution of labour disputes, and for these purposes the council shall have regard to the following purposes and objects:
>
> (a) securing and maintaining industrial peace and furthering harmonious relations between employers and employees;
>
> (b) improving the practices and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees;
>
> (c) promoting conditions favourable to the orderly and constructive settlement of disputes between employers and employees or their freely chosen trade unions;
>
> (d) encouraging the voluntary resolution of collective bargaining disputes;
>
> (e) minimizing the harmful effects of labour disputes on persons who are not involved in the disputes;
>
> (f) providing such assistance to employers and bargaining agents as may facilitate the making or renewing of collective agreements;
>
> (g) gathering and publishing information and statistics respecting collective bargaining in the Province.

These purposes and objects form the policy foundation for the Council's comprehensive jurisdiction under the Act, which governs the process of collective bargaining and offers mechanisms to assist in the resolution of labour disputes in both the public and private sectors of the Province. In addition to the responsibilities under the Act, the Council is charged with responsibility in labour relations matters under eleven other statutes (see Table B). The Council's expansive jurisdiction is unique among Canadian labour tribunals and requires an administrative structure to accommodate this varied legislative mandate. Section 12(2) of the Act provides that the Council shall consist of a commissioner, vice chairmen, and as many members equal in number representative of employers and employees respectively, as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. The commissioner is the head of the Council. The Act requires that there be at least two divisions of the Council, one of which the commissioner has designated the Industrial Relations Adjudication Division (the "Adjudication Division"), and the other which he has designated the Disputes Resolution Division. The commissioner is required by the Act to designate one of the vice chairmen to be chairman of the Adjudication Division and another vice chairman to be chairman of the Disputes Resolution Division. He has also designated a vice chairman as registrar of the Council. The chairmen and registrar report

directly to the commissioner, but the two Divisions and the Registry operate as departments administratively independent of each other.

A department of the Council, entitled Finance and Administration, administers the personnel, budget, library, and computer requirements for the tribunal as a whole.

The abbreviated organization chart on page 10 offers a visual illustration of the Council's administrative structure. Following is a brief description of the Council's administrative operations.

Office of the Commissioner

As head of the Council, the commissioner has a general obligation to oversee the administration of the legislation and the Council's operations. (The chairmen of the Adjudication and Dispute Resolution Divisions, the registrar and the director of administration all report directly to the commissioner). Pursuant to Section 13 of the Act, the commissioner is empowered to establish panels and refer business to them. Accordingly, the commissioner, on the recommendation of the chairman, appoints the adjudication panels in the Adjudication Division and may himself sit on such a panel to resolve a legal dispute. He manages the disposition of all reconsideration applications (appeals). The commissioner has significant powers under Part 8.1 of the Act in assisting parties to achieve a voluntary resolution of interest disputes. These powers include the appointment of mediators and fact-finders and the referral of disputes to public interest inquiry boards.

Office of the Registrar

Every application received by the Council enters the system through the registrar's office, which oversees the administration and progress of the case as it makes its way through the system until the matter is finally disposed of by the Council. Applications which under the Act are to be made to the commissioner or chairman of the Disputes Resolution Division must be initiated through the registrar's office which will process and direct them to the appropriate individual. The effective and speedy processing of cases is augmented by the Council's new computer system. Thus it is particularly important for computerized case monitoring/management purposes, that every application to the Council be processed through the one location of the registrar's department. The registrar is also responsible for the Council's special investigating officers. He assigns them to assist parties to achieve a settlement of a legal issue, with the knowledge that a formal hearing and legal adjudication may be unnecessary. Finally, the registrar, as a vice chairman of the Council, may chair or sit as a member of an adjudication panel. The registrar, as a sole panel member, may dispose of certain applications that lend themselves to summary disposition. This process contributes to a speedy disposition of many types of applications. The registrar's staff includes two assistant registrars, three special investigating officers, a secretary and significant support staff.

The Adjudication Division

The Adjudication Division concentrates on adjudicating legal issues in labour relations such as the acquisition and termination of bargaining rights, complaints of unfair labour practices and allegations of illegal strikes, lockouts or picketing activity. It is not involved in the resolution of interest disputes. The majority of applications to the Council are directed to the Adjudication Division for disposition.

Investigating officers achieve a voluntary resolution in approximately half of the cases assigned. Notwithstanding the high percentage of voluntary resolution, the Adjudication Division has a heavy caseload which must be dealt with expeditiously. The Division is managed by a senior vice chairman who is appointed chairman of the Division. He monitors the workload of the Division, deals with any problems that may arise in the scheduling of hearings or difficulties that may occur in the processing of a given case, and is generally responsible for the efficient provision of the Council's adjudicative services. Thus the new computerized case monitoring/management system is of great assistance to the chairman. As of December 31, 1990, there were nine vice chairmen reporting to the chairman of the Adjudication Division. Given that he is also a vice chairman of the Council, the chairman may himself chair or sit as a member of an adjudication panel.

Legal services to the Adjudication Division are provided by a staff of four lawyers. The senior solicitor is employed on a continuing basis by the Council, whereas other lawyers are hired for terms certain. The lawyers report to the chairman of the Adjudication Division through the senior solicitor. They engage in legal research, attend hearings and provide legal advice to the members of the Adjudication Division, as well as represent or assist in representing the Council's interests in judicial review proceedings.

The Disputes Resolution Division

This Division has the statutory responsibility to monitor all labour disputes in the Province and assist parties in the voluntary resolution of collective bargaining conflict. Preventive Mediation is encouraged. Moreover, the Division is intended to function as an industrial relations resource centre, for the Act requires that it gather and publish information and statistical summaries and analysis respecting private and public sector settlements, labour relations, employment and collective bargaining in the Province. The computer system is a critical tool in this regard as a supplement to the monthly publication established in 1990. The Division is managed by a senior vice chairman, who is appointed chairman by the commissioner. The Act empowers the chairman to appoint a mediation officer to assist parties in resolving an interest dispute, at the request of a party, on his own motion, or at the direction of the commissioner. As of December 31, 1990, three mediators, as well as support staff, reported to the chairman of this Division.

Finance and Administration Group

Finance and Administration is responsible for administering the Council's budget and its support functions including the library, information systems, security and personnel services. The director oversees the negotiation and administration of the collective agreement with the Staff Association of the Council. The manager Information Systems, manager Library Services, and the personnel/admin supervisor all report to the director. The vice chairmen's secretaries also report to the director.

Finance and Administration has continued to play a key role in the implementation of the data management plan for the Council which was originally developed in 1987. The plan called for extensive use of current computer technology. The main goals of the system are to improve word processing capacity and develop a case management scheme that will improve and control the internal and external flow of documents and information. In addition, the system is to be used to generate statistics on collective bargaining, store library catalogues, and allow for the use of computer aided research tools.

This system has as its main purpose:

- *event tracking*
- *external document tracking*
- *document generation (ie notice of hearings)*
- *resource scheduling (ie witnesses, adjudicators, hearing rooms)*
- *management information (ie caseloads, elapsed times)*

The Council's Case Management System is now a year older. In March of 1990 it underwent a routine "Post Implementation Review" by an independent consultant, as do all major Government systems initiatives. The consultant concluded that "... the system more than meets original expectations. It is fast becoming not just a tool within the business process, but the business process itself."

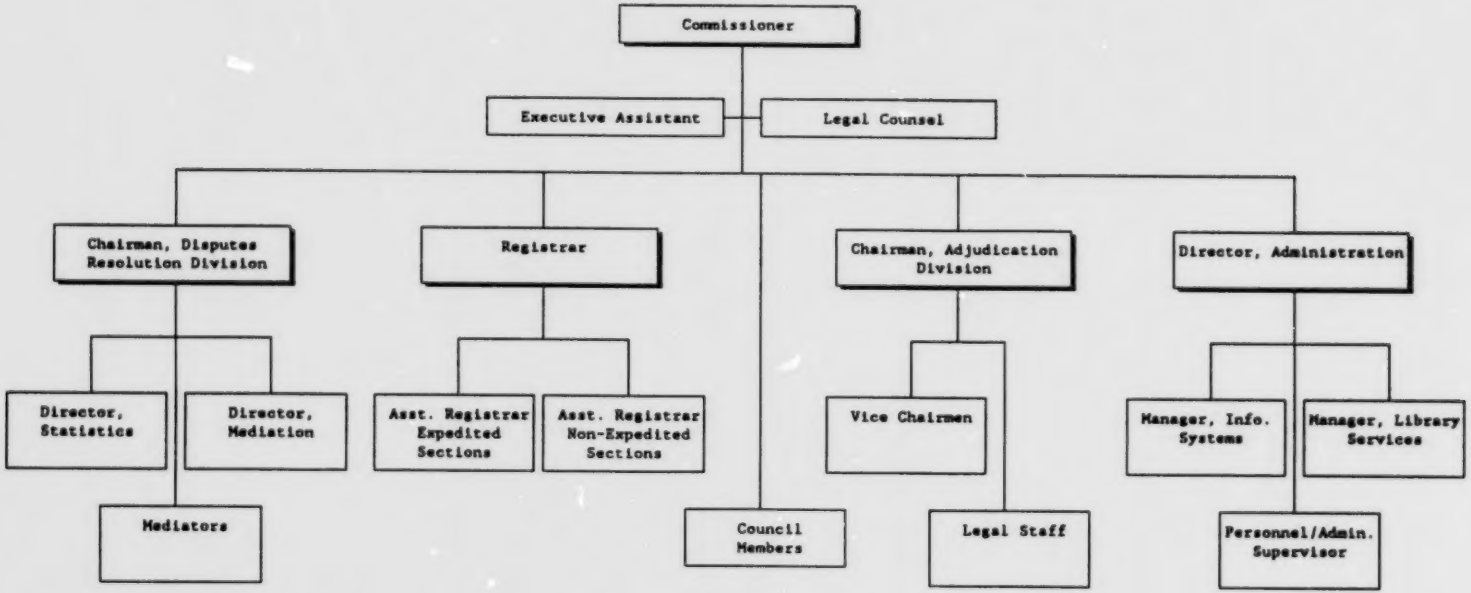
Enhancements to the system have included the addition of an Executive Information System which provides Senior Management with up-to-date reports on the status of cases within the system, and statistics dealing with the rate of disposition, among other things.

The highlight of the year was the implementation of the Council's Collective Bargaining Information System. This system processes the returns submitted to the Council pursuant to the Industrial Relations Act whenever a collective agreement settlement is reached. In addition to its use by the Council's staff, this information is now available on-line to outside organizations. Access is gained by dial-up from personal computers to the Council's mainframe.

Also during the year the council's formal decisions became available via the "Quicklaw" computer system, widely used by Canada's legal profession. The Council's decisions are supplied to Quicklaw by direct electronic transfer (currently the Council is the only tribunal supplying its material in this manner), and as a result it is usual for Council decisions to be available on the Quicklaw system within a couple of weeks of issue. The Council is the pioneer labour tribunal in this area, and other labour relations tribunals across Canada are expected to follow suit.

The Information Systems staff has been working on an ongoing basis to improve the overall performance of the system and respond to the changing demands of the user group, thus ensuring that the original goals are achieved.

Industrial Relations Council
Abbreviated Organization Structure



II MEMBERS OF THE COUNCIL

As of December 31, 1990, the Council consisted of the following members:

EDWARD R. PECK *Commissioner*

Mr. Peck graduated from the University of British Columbia in 1949 with the degree of Bachelor of Commerce. He possesses more than thirty-five years of industrial relations experience in public and private industry, spanning both federal and provincial jurisdictions, and has studied both the U.S. and British industrial relations models. (In 1961 he was seconded for a year to the Central Electricity Generating Board at London England.) The positions he has held include: Chief of Personnel Services, B.C. Power Commission (1955-61); General Manager, Peace Power and Columbia Hydro Constructors (1966-69); Manager of Labour Relations, B.C. Hydro (1970-71); President, Towboat Industrial Relations Association of B.C. (1971-73); Vice Chairman and Chief Administrative Officer, Labour Relations Board of B.C. (1973-79); Commissioner, Compensation Stabilization Program of B.C. (1982-87). He has also served as an Industrial Inquiry Commissioner and mediator/arbitrator in numerous disputes, and as an advisor to various ministers of labour and British Columbia governments.

KENNETH E. ALBERTINI *Chairman, Adjudication Division*

Mr. Albertini is an experienced mediator and adjudicator, and has more than twenty years labour relations experience in British Columbia. He has held many positions involving the negotiation and administration of collective agreements, including supervisor of Operations, Greater Victoria School District #61 (1971-1973), and president of Transport Labour Relations (1976-1977). He served as a mediation officer with the Mediation Services Branch of the B.C. Ministry of Labour for seven years. Mr. Albertini was appointed vice chairman of the Labour Relations Board of B.C. in 1981, and vice chairman/registrar in 1984, which positions he held until his appointment with the Council. He is a member of the Arbitrators' Association of British Columbia.

A. PAUL DEVINE *Registrar*

Mr. Devine graduated from the University of British Columbia in 1972 with an LL.B degree. After articling with the Vancouver law firm of Alexander, Guest and Company, he was appointed as a compensation consultant with the British Columbia Department of Labour, representing workers and dependents before the Workers' Compensation Boards of Review. Mr. Devine has extensive experience as an adjudicator. He held several positions at the Workers' Compensation Boards of Review/Review Board since his appointment as administrative chairman in 1977, including that of registrar. He was appointed chairman of numerous appeal boards, and adjudicated thousands of cases in his ten years of service with the Boards of Review/Review Board. Prior to his appointment with the Council, Mr. Devine served as a commissioner of the Workers' Compensation Board of British Columbia.

DARWIN T. BENSON *Chairman, Disputes Resolution Division*

Mr. Benson has many years experience with industry, government and trade unions involving personnel training, negotiation, and administration of collective agreements, and development of labour relations policy. From 1964 to 1979 he was International Staff Representative with the United Steelworkers of America. Mr. Benson was instrumental in forming the Kootenay-Boundary Labour Relations Association, a collective bargaining organization of 24

municipalities. He served as chief conciliation officer, Mountain Region, Labour Canada. From 1982 until his appointment to the Council, he was superintendent of labour relations with Esso Resources Canada Ltd. at Canada Wide Mines, and at Byron Creek Collieries in British Columbia.

EMILY BURKE *Vice Chairman*

Ms. Burke completed two years at the University of Lethbridge and graduated from Dalhousie Law School in 1981. She served as a staff lawyer with the former Labour Relations Board from 1984 to 1986 and then practiced labour law with the firm of Alexander, Holburn, Beaudin and Lang, which involved work for employers in various sectors including forestry, health care, construction, municipal and manufacturing. She joined the Council in 1990.

JOE CROWDER *Vice Chairman*

Mr. Crowder has an extensive background in labour relations in the Province in both the private and public sectors. His experience encompasses railroading, railcar manufacturing, winch manufacturing, truck manufacturing and the negotiation of collective agreements in each of these industries. In 1981 he became the Director of Industrial Relations for the City of Kamloops. At this time, he also became a member of the bargaining committee for the Okanagan Mainline Municipal Labour Relations Association. He presently serves, and has for many years, as Executive Vice-President and member of the Board of Directors with Interlock, a non-profit society providing employee assistance programs to the labour relations community, co-sponsored by management and labour in B.C.

BARRY GOFF *Vice Chairman*

Mr. Goff is an experienced mediator and adjudicator. He served as senior special investigations officer with the Labour Relations Board of B.C. from 1976 to 1984, and as senior labour relations officer with Construction Labour Relations Association from 1984 to 1986. In 1986 he was appointed a vice chairman of the Labour Relations Board of B.C., a position he held until his appointment to the Council.

MARTIN LEVINSON *Vice Chairman*

Mr. Levinson is a veteran advocate who has practiced labour law for trade union clients (including the IWA) in Ontario for 30 years. He received a Bachelor of Arts at McMaster University in Hamilton, a Master of Commerce at the University of Toronto and a Law Degree at Osgoode Hall. In recent years, he has acted as dispute resolution arbitrator for several unions and in general dispute arbitrations. He taught a post graduate course in industrial relations at McMaster University from 1960 to 1968 and was the founder and original editor of the monthly publication Labour Arbitration News. He is the author, together with Jeffrey Sack, of Ontario Labour Relations Board Practice (1973).

RICHARD LONGPRE *Vice Chairman*

Mr. Longpre graduated from the University of British Columbia in 1976 with a Bachelor of Commerce degree, majoring in industrial relations. He joined Noranda Mines Limited where over the next four years he negotiated collective agreements and coordinated labour relations policy amongst the Noranda Group of companies in Ontario, the Prairies and British Columbia.

In 1981 Longpre joined the Mediation Services Branch of the Ministry of Labour. After three years, he set up an independent labour arbitration and mediation practice. In June 1985, he was appointed a vice chairman with the Labour Relations Board of B.C., a position he held until his appointment to the Council.

HEATHER MCDONALD *Vice Chairman*

Ms. McDonald graduated from U.B.C. in 1979 with an LL.B degree and articled with the Legal Department of the Workers' Compensation Board of British Columbia. After a year of studying administrative and constitutional law in Montreal, she returned to Vancouver where she served as Crown Counsel for the Ministry of Attorney General of British Columbia, and as a consultant to the British Columbia Public Interest Advocacy Centre. In 1983 she joined the Compensation Stabilization Program as legal counsel. In July of 1987 she moved to the Industrial Relations Council where she held the position of legal counsel to the commissioner until her appointment as vice chairman.

ROCHELLE (SHELLEY) C. NITIKMAN *Vice Chairman*

Ms. Nitikman graduated from the University of Manitoba in 1974 with an LL.B degree and articled with the Vancouver law firm of Shrum, Liddle and Hebenton. She was employed as a staff lawyer with the Legal Aid Society of British Columbia, established her own law firm practicing family law, and was appointed by the Ministry of Attorney General as a family court advocate. Ms. Nitikman has considerable adjudication experience. In addition to arbitration appointments, she was appointed in 1980 as a chairman of the Workers' Compensation Boards of Review, and in her five year term adjudicated approximately 4000 cases. Prior to her appointment to the Council, Ms. Nitikman was enroled in the LL.M program at the University of Dalhousie.

NORA PATON *Vice Chairman*

Ms. Paton graduated from the University of McGill in 1964 with a Bachelor of Nursing degree and from the University of British Columbia in 1976 with a Masters in Education (Adult Education) degree. She has an extensive background in labour relations. Ms. Paton joined the Registered Nurses Association of B.C. in 1969. The labour relations division of the Association subsequently became the B.C. Nurses Union, and Ms. Paton ultimately became its chief executive officer. In her sixteen years with those organizations, she participated in the negotiation and administration of many collective agreements, as well as in the mediation and arbitral processes. In 1980 she was appointed as a part-time member of the Labour Relations Board of British Columbia. In 1986 Ms. Paton was appointed a vice chairman, a position she held until her appointment to the Council.

WALTER PYLYPCHUK *Vice Chairman*

Walter Pylypchuk graduated from the University of Western Ontario with a Bachelor of Laws degree in 1976. He is also a graduate of Brock University, with an honours Bachelor of Arts degree. He engaged in the private practice of law in the St. Catherine's area, representing a number of unions in labour arbitration , and then spent seven years at Canada Post in the practice of labour law in the area of transportation contracting. He joined the Council in 1989.

EMPLOYER REPRESENTATIVES

CLARE ALCOTT

Former member of the Labour Relations Board and long time MacMillan Bloedel industrial relations executive. For the past decade he has been engaged in an industrial relations consulting service. As well, he has served on the Board of Directors of the B.C. Maritime Employers Association and the Towboat Industrial Relations Association.

MARK LEFFLER

B.C. born and raised. Graduate of U.B.C. - Bachelor of Commerce, 1969. Fourteen years of labour relations experience commencing with Ontario Hydro. Served as Manager of Labour Relations, B.C. Hydro from 1981 - 1986. Presently (from 1986) Manager of Personnel and Industrial Relations, Greater Vancouver Regional District.

BRIGID LUMHOLST-SMITH

Born in Zimbabwe, Harere, immigrating to Canada in 1971. Since 1974 she has been employed with Kelly Douglas & Co. as Industrial Relations Manager responsible for all industrial relations and personnel matters for union and non-union staff for the B.C. and Yukon region, including the negotiation and administration of collective agreements.

A.J. (TONY) POJE

A veteran labour relations practitioner in B.C. who served as an IWA official during the 50's before transferring to management with Crown Zellerbach Canada Ltd. where he rose to the position of Vice-President, Industrial Relations in the 70's. Served for a number of years on the Forest Industrial Relations negotiating committee, and was a Member of the Labour Relations Board from 1984 to 1987. Since his retirement he has acted as an ad hoc consultant in labour relations matters.

GEORGE RICHARDSON

Recently retired General Manager of Bell Pole Company residing in Vernon. Served for many years as Director and Member of the Negotiating Committee of the Interior Forest Labour Relations Association, and prior to that as the Industrial Relations Manager (Southern Interior) for B.C. Hydro. He was appointed by the I.R.C. as fact finder in the Western Canada Steel and C.A.I.M.A.W. dispute.

PETER RICHARDSON

Former member of the Labour Relations Board, with 25 years labour relations experience in the retail and warehousing industry, both food and non-food products, involving both union and non-union employees for Woodwards Stores. He has broad experience in grievance administration including the preparation and presentation of arbitration cases and acting as a member on boards of arbitration.

BOB SAUNDERS

President & General Manager of Smith Bros. & Wilson with more than 30 years in the construction industry. Served as an officer with a variety of construction and contractor associations, notably as President of the Amalgamated Construction Association of B.C. and the Canadian Construction Association, and Chairman of CLRA (1978). As well, he was Chairman of the Business Council for the year 1986.

EMPLOYEE REPRESENTATIVES

JACK ADAMS

Former member of the Labour Relations Board, and Director of Personnel Services, B.C. Government Employees' Union, now retired. He also served as a member of the Executive Council of the B.C. Federation of Labour and has many years experience in labour relations in the Provincial Government service.

MONTY ALTON

After many years of service with the local union of the United Steelworkers of America, he rose to the position of International Representative. Based in Vancouver, he held the office of Area Supervisor (encompassing B.C., the Yukon and Northwest Territories) until his retirement. During this time he also acted as a Vice-President of the B.C. Federation of Labour. During Cominco negotiations in Trail and Kimberley he became well-known as the chief negotiator for the Steelworkers.

KEN ANDREWS

Majored in law and economics at Ruskin College, Oxford. Served as President of CUPE, Local 116 representing U.B.C. employees for 17 years. Past Chairman and Member of the Board of B.C.H.A. serving on special committees, and past Member of the Board of Governors of the University of B.C.

BRYAN S. DENTON

Served for 25 years with the Retail Clerks Union from 1962 to 1987, starting out as a Business Agent and rising to the position of President. Served on the B.C. Fed Executive Council, the U.F. & C.W. International Advisory Board and as Chairman, Board of Trustees - Union Pension Fund - Union Dental fund. He has also served on the Board of Directors for C.U. & C. Health Services Society and B.C. Heart Foundation.

JOHN DONALDSON

Former member of the Labour Relations Board. Served for many years as a Teamster Business Manager. Former Executive Board Member of the B.C. Yukon and Building Trades, he also

served on the Executive Board of the Allied Hydro Council involved in heavy construction in B.C. including the development of the Peace and Columbia Dams.

PAMELA MOORE

Recently served as Operations Director of the B.C. Nurses' Union. A graduate of Kings College Hospital in London, England, Pamela began her career as Assistant Director of Nursing and Assistant Clinical Instructor at a residential children's facility in Slough, England. Upon moving to British Columbia she worked as a Head Nurse at Children's Hospital before commencing her employment with the B.C. Nurses' Union.

KEN SCOTT

Retired official of the Teamsters, Local 213 with 19 years of service. In 1966 he was hired as a Business Representative, elected to the Executive Board as Trustee in 1974 and founding trustee of Local 213's pension plan. During his career he served as Interior Business Manager and Executive Board Recording Secretary.

III STATUTORY AMENDMENTS

The Labour Code was enacted in 1973 and proclaimed in force in several stages throughout 1974. It has been revised many times since then. Some amendments have involved technical refinements only while others have introduced substantive changes. The Labour Relations Board's past annual reports describe the amendments that were made up to and including the year which was the subject of the particular report, and hence this report will not refer to amendments made prior to 1987. Of all the amending legislation, the Industrial Relations Reform Act 1987, S.B.C. 1987, c.24 introduced the most extensive changes with some 64 sections amending the Labour Code. The title of the Code was then changed to the Industrial Relations Act. The Industrial Relations Council was established to continue the adjudicative operations of the Labour Relations Board and to offer interest dispute resolution services as well. A brief summary of the most significant amendments was contained in the 1987 annual report of the Council and interested individuals are directed to that document.

There was one amendment in 1989 to the Industrial Relations Act, R.S.B.C. 1979, c. 212. Section 123.1, which established the Productivity Fund, was amended by the Budget Measures Implementation Act, 1989, S.B.C. 1989, c. 1, s. 5:

There were no amendments to the Act in 1990.

IV PRACTICE AND PROCEDURE BEFORE THE COUNCIL

There were no procedural memoranda issued by the Council in 1990.

DISPOSITION OF APPLICATIONS

Disposition by the registrar: A large number of cases are decided on a strictly administrative basis. A policy has been implemented whereby the registrar may summarily dispose of certain applications. These include:

* variance applications involving a change in name or address
* applications under Section 96(1) which cannot be resolved by an investigating officer and should be referred back to the parties to be dealt with through the dispute resolution mechanism in their respective collective agreements
* decertification applications under Section 52(8) where no persons have been employed in the bargaining unit for the two year period stipulated and the statutory requirements are otherwise met
* applications for decertification under Section 52(2): ordering a representation vote, and, if no unfair labour practice is alleged, cancelling the certification
* applications for deaccreditation which meet the statutory requirements
* applications to withdraw
* applications under Sections 36 and 108 which are out of time and for which no valid argument for untimeliness is presented
* such other applications as lend themselves to summary disposition

Other Dispositions without a Hearing: Other kinds of cases are also processed without a formal hearing. The application or complaint is investigated by an industrial relations officer of the Ministry of Labour who files a report with the Council. This report, together with the parties' submissions, is reviewed by a panel of the Council. If the matter can be decided upon the basis of the materials on file, a decision is made without a hearing.

In cases which are contested, the Council often attempts to achieve a voluntary resolution before proceeding to the stage of a formal hearing and adjudication. This may involve the efforts of an industrial relations officer or special investigating officer, for example. This policy is especially important in the following areas: unfair labour practice complaints, Section 96(1) disputes, and strikes and picketing complaints. In these areas, the Council achieved a voluntary accommodation in approximately half of the cases.

Hearings: Contested cases which are not settled and which cannot be decided on the basis of the materials on file will be the subject of a hearing before the Council. With respect to applications for certification for units of unorganized employees, a hearing is always held. Section 43(1) of the Act requires that a representation vote ordered by the Council on a certification application must be conducted within ten days of the date of the application. Accordingly, certification applications must be heard expeditiously by the Council, with objections to the application being raised at the hearing. As well, pursuant to Section 2(5) of the Act, where no collective agreement respecting a unit is in force and a complaint is filed with the Council alleging that an employee has been discharged from employment because of the

exercise of a right conferred by the Act, the Council must commence a hearing on the complaint within five days of its filing, unless the complaint is settled or withdrawn before then.

In 1990, the Council held 540 hearings. Included were 372 expedited certification hearings.

Published Decisions: In contested cases that are unresolved by the parties, the Council's general practice is to give written reasons for its decisions. These formal decisions explain the Council's findings to the immediate parties and lay down general guidelines about the Council's policy and interpretation of the Act. The formal decisions are numbered and are made available to unions, employers, legal counsel and other interested persons.

In addition to its formal decisions, the Council issues decisions in letter format from time to time which contain brief reasons or no reasons at all, and which are of no precedential value other than to the parties concerned.

Decisions which the Council believes will constitute important precedents for the future are incorporated in a series entitled the Canadian Labour Relations Boards Reports (New Series), which is published by Butterworth & Co. (Canada) Ltd.

V HIGHLIGHTS OF COUNCIL DECISIONS

CERTIFICATION

Section 39(1) or 39(2) Application?

One of the most important decisions to affect certification rights in 1990 was Army and Navy C158/90 (reconsideration of C71/90), which arose when the BCGEU applied to represent a bargaining unit of employees bargaining units represented by the GWU under two separate certifications and collective agreements. The question was whether this was an application for certification under Section 39(1) or a "raid" under Section 39(2). Characterization of the application was important because of time constraints limiting "raids" to the open period of the collective agreement. If it was a "raid", the application was untimely and would fail.

The original panel concluded that because the proposed bargaining unit, was substantially different from the two existing units, it was an appropriate application for certification. This conclusion was reversed by the reconsideration panel which found the application to be a "raid" because the unit applied for was "designed to circumvent the time limits specified in the Act." (at 8) Consequently, it rejected the approach of the original panel which focused on the two certifications and two collective agreements, concluding that:

> The key to determining if an application is a raid is to look to the proposed "unit," which is the employees affected. Are the same employees in the proposed unit already represented by a trade union or is the unit changed in a significant way by the addition of new employees? Likewise, does an existing collective agreement already bind employees in the proposed unit? Does the applicant propose a substantially different bargaining structure or does it simply propose to supplant the current bargaining agent?
>
> (at 8)

Because the panel could find no substantial difference between the proposed bargaining unit and the two existing bargaining units, the application was found to be a "raid." A change of bargaining unit will not be permitted under Section 39(1) unless the application results in a "significantly different" collective bargaining relationship. Since such a change was not evident in the proposed structure, the application was made under Section 39(2) and was, therefore, untimely.

Hybrid Bargaining System

When non-professional employees at North Island College brought an application for certification under the Industrial Relations Act (the IRA), the College objected to the jurisdiction of Council. It argued that all terms and conditions of employment were determined by a system set out in the College And Institute Act, R.S.B.C. 1979, C53 (the "College Act") and therefore the IRA, which gave jurisdiction to the Council, was not applicable. In North Island College C15/91 (reconsideration of IRC No. C188/90), the certification application was allowed: the Council, both in the original decision and on reconsideration, affirmed the right of non-professional employees at North Island to be represented by a bargaining agent certified under the IRA. While professional employees at the college were found to be limited to procedures under the College Act in how they negotiate the terms and conditions of their employment, non-professional employees were subject to a hybrid system, that is one that combined systems in two different pieces of legislation. They include remuneration as determined by the 'fair compensation method' provided in the College Act and non-compensatory items that may be the subject of collective bargaining under the IRA.

Bargaining Unit of Supervisory Staff

In B.C. Transit C32/90, the Council certified the Transit Management Association as the exclusive bargaining agent for certain employees engaged in supervisory duties. The employees had been bargaining for quite some time on a voluntary basis with the employer but finally sought certified bargaining rights. They sought their own unit, separate from another larger unit of BCT employees. In spite of the Council's strong preference for a single bargaining unit, the second unit was found to be appropriate and counting the vote was ordered. The panel determined that a rational and defensible boundary could be drawn around the unit because the same parties had bargained on a voluntary basis along these lines for a number of years and because the group exhibited a distinct community of interest from other employees. But for the cohesiveness and distinctiveness which developed largely because of the history of voluntary bargaining, a separate unit might not have been appropriate.

Excluded from the unit of supervisory personnel were any supervisors with the power to effectively determine certain key employment related matters such as hiring, firing and discipline. The panel also dismissed the suggestion that the presence of some managers in the Association affected the Association's status as a trade union. In the words of the panel:

> We do not read the Act's definition of trade union as referring to an association or organization comprised only of employees ... it is a question of fact in every case as to whether the mere presence of managers in the membership of an organization vitiates its status as a trade union under the Act.
>
> (at 32)

Where, as in this case, there was no issue of employer domination, the status of the association was unaffected by a few managers excluded from the bargaining unit.

Automatic Certification

This year, for the first time, the Council used its power under Section 8(4)(e) to grant automatic certifications as remedial action for unfair labour practices committed by employers. In 355677 Alberta Ltd. operating as Time Management C172/90 arose in the context of fierce rivalry between two competing unions who filed separate applications for certification and of a company that was determined to remain non-union or failing that, certified to CISIWU. The panel was unable to conclude on the evidence that CISIWU was employer dominated but was able to find the employer guilty of an unfair labour practice, contrary to Section 3(1). It had breached the section by hiring employees with a preference for one of the two competing unions and in this way facilitated the efforts of one union over the other. To promote and encourage one union interfered with the other's success at the ballot box and thus was a breach of Section 3(1) which prohibits an employer from interfering with the formation or administration of a trade union. Because the employer's actions rendered a vote meaningless - it would be impossible to discern the true intentions of the employees - automatic certification was seen as the only meaningful remedy in the circumstances. Finally, the panel granted a certification for a unit entirely different from that originally applied for.

Another automatic certification order was issued in Canadian Tire Store No. 362 C224/90 which arose out of an organizing drive by UFCW, Local 1518 at the Nanaimo Canadian Tire Store. There the employer was found to have committed a number of unfair labour practices that would nullify a representation vote as a remedy so that automatic certification was found to be appropriate. The panel set out the following guidelines for application of Section 8(4)(e):

> Section 8(4)(e) is a discretionary remedy and in my view, the real guideline for an adjudicator to keep in mind is that the remedy is meant to be used in any circumstances where a representation vote is not an appropriate remedy, without limiting or trying to define what those circumstances might be.
>
> (at 31)

The panel was satisfied that termination of two employees was caused in whole or in part by the employer's anti-union animus and therefore was in violation of the prohibition in Section 3(3)(c). On the evidence before it, the panel was satisfied that several one-on-one meetings between management and employees "crossed beyond the line of permissible free speech" permitted by employers under the Act. (at 27) The panel was also satisfied that the employer took advantage of its position to ensure that the employees hear management's view of the organizing drive by calling on employees during work time to attend a meeting with one of the managers. And, the contents of information passed on to the employees implied that unionization would mean a protracted strike and ultimately less favourable working conditions. On the evidence, the panel was convinced that the real wishes of the employees would not be revealed through a representation vote and the union would have won a vote in the absence of the employer's illegal conduct.

SUCCESSORSHIP

One of the most interesting Section 53 applications in 1990 arose when Granville Island Hotel & Marina Ltd. opened the Top of Vancouver restaurant on the site formerly occupied by the Harbour House Restaurant. In Granville Island C127/90 (reconsideration of C258/89; reconsideration of C132/89), the Council entertained a second reconsideration application in the decision when the original and first reconsideration panels disagreed. The second reconsideration panel, chaired by Commissioner Peck, confirmed the special difficulties that can arise in a Section 53 reconsideration:

> In few other sections of the Act is the distinction between findings of fact and conclusions of law as elusive as it is in Section 53. The presiding panel must make factual findings and examine these against the factors set out in Lyric Theatre Ltd., BCLRB No. 38/80, [1980] 2 Can LRBR 331, and elsewhere. It must then determine as a matter of law whether a finding of successorship is appropriate. It is the legal significance of the factors that is considered in an application under Section 53, and to the extent that the original panel fails to consider these elements, reconsideration is available. Mere disagreement with factual determinations upon which the analysis is based is not enough to justify interference by a reconsideration panel.
>
> (at 4-5)

The decision reinforced the very narrow scope of a second reconsideration and the fact that such an application will seldom succeed. In regard to the substantive issue, the Peck panel ultimately upheld the first reconsideration decision which found a successorship. Both reconsideration panels disagreed with the legal significance assigned by the original panel to certain factors leading to a Section 53 determination.

The original panel failed to attach appropriate legal significance to several factors that were then properly considered by the reconsideration panel. These included the hiring of former Harbour House employees; honouring Harbour House gift certificates; using $200,000 worth of assets formerly belonging to Harbour House, including kitchen equipment, a computerized cash register, a reception desk and dining room tables; and use of the same advertising photo.

These factors, in the estimation of the reconsideration panels, amounted to more than a "location certification." That is, one where the second business simply occupied the space vacated by the predecessor restaurant business. Rather, they established a discernible continuity of business necessary to grant a successorship order. Finally, the panel determined that the successor employer was bound by the previous collective agreement from the date of the disposition of the premises, rather than the date of the reconsideration application.

C127/90 also brought up the issue of notice to employees in a successorship dispute. The panel disallowed two separate applications for reconsideration brought by two employees who claimed they were affected by the original successorship order but did not have an opportunity to be heard. Both applications, however, were dismissed, one because it was six weeks late and there was no reason to extend time limits, and the second because the person was not an employee at the date of the original application.

Successorship on a Unique Site

The Commissioner was the panel in another important 1990 reconsideration application, The Three B's Enterprises Ltd. C92/90 (reconsideration of C253/89). A key element emphasized in the original decision was a lease valued at $400,000. It was emphasized by the reconsideration panel:

> Features unique to this lease convey the essence of the business carried on at the Queen Elizabeth Park site. Anyone occupying the premises under the terms of the lease was obliged to carry on a particular kind of business, a "first class" restaurant, and to complete renovations in a particular way. Not only does the lease specify the amount to be spent on particular aspects of the renovations, the [lessor] Parks Board had a virtually unfettered right to inspect and approve any changes to the restaurant. Indeed, it had the right to approve the menu. The lease also called for certain improvements to the parking lot and obliged anyone operating under it to maintain public washrooms on the lower level of the restaurant and to keep them open during hours specified by the Board. This is not a situation where a purchaser takes a (sic) premises clear of obligations to or on behalf of a vendor. In fact, quite the contrary is true. Extensive obligations under the lease bound the Bollman's and Three B's, and anyone (such as 3306 Investments) who stands in their place: they are required to operate a "first class restaurant and banquet facility" with "high quality food, products and beverages at reasonable costs" and to comply with Parks Board directions in respect of the type of food and quality of services. Even Three B's would have been obliged to make the changes specified by the Parks Board. The lease itself is enough to establish a discernible continuity in the two operations.
>
> (at 7)

The unique site of the restaurant - Vancouver's Queen Elizabeth Park - along with the fact that both operations were required by the lease to be "first class restaurants" convinced the reconsideration panel that there was a discernible continuity to the two operations and therefore that a successorship was appropriate.

EMPLOYEE VOTE FOLLOWING SUCCESSORSHIP

Molson Breweries C162/90

When Carling O'Keefe Limited and Molson Breweries Limited merged to form a partnership, the Union certified to represent Carling employees, the Association of Commercial and

Technical Employees (ACTE) applied to the Council for successorship order under Section 53. While Molson agreed that it was a successor at one of the two new locations, it disputed the successorship at the second location and claimed that it was not bound by the successorship after closure of the Carling operations. The panel disagreed and ordered that Molson Breweries, at two B.C. locations, was bound by the collective bargaining obligations formerly binding Carling.

More significant than whether a successorship existed was the question of a representation vote amongst the employees in the merged bargaining unit. The evidence showed that the applicant union had approximately thirty-four per cent of the bargaining unit and while the panel concluded that this was "certainly borderline," the panel nonetheless exercised its discretion and ordered a representation vote: "If ACTE members are to lose collective bargaining rights, except in the most obvious cases, that should occur through the ballot box." (at 8) The panel also denied the union's request for an order granting access to the employer premises at the end of shifts on two consecutive days in order to meet with employees. The panel reasoned that Section 53 did not contemplate such relief and even if it did an access order was not appropriate in the circumstances. Moreover, it noted that the collective agreement governing the new collective bargaining relationship set out trade union access and bulletin board rights.

NON-AFFILIATION CLAUSES

Simon Fraser University C37/90

This case arose out of a challenge by a poly-party union that held a certification for certain maintenance employees at Simon Fraser University. At issue was the validity under Section 9.1 of the Act of certain subcontracting and non-affiliation clauses in the collective agreement between the parties. The section reads as follows:

> 9.1 (1) Except with respect to a collective agreement relating to construction work performed on a construction project, no trade union and no employer shall conclude an agreement respecting the terms and conditions of employment, or respecting membership or non-membership in a trade union, of employees of another employer.
>
> (2) Where an agreement contains a provision that violates subsection (1), the provision is void.

The work performed by these maintenance employees was primarily maintenance work, but from time to time they were required to engage in construction work. The question was whether or not sporadic construction work permitted these employees to rely on the non-affiliation and subcontracting clauses in the collective agreement with SFU.

The panel concluded that an exemption from the prohibition was inappropriate in the circumstances. To begin with, such clauses had to be strictly interpreted and under the circumstances none of the policy reasons existed for a Section 9.1 exemption. Moreover, the collective agreement governing the relationship between the parties was not one "relating to construction work performed on a construction project." Rather, it arose in the context of a "typical industrial collective bargaining relationship," where there was a stable work force and an ongoing relationship between the union and the employer. Finally, the employer's operation did not resemble one normally found in the construction industry. Thus, reliance on the clauses was not permitted.

Western Canada Steel

The decision in Western Canada Steel and CAIMAW Local 6 C242/90 followed the longest hearing in the history of the Industrial Relations Council and predecessor Labour Relations Board. In a time period spanning more than one year, the Western Canada Steel panel, before rendering a decision, sat through 46 days of testimony and argument.

The dispute arose when employees at Western Canada Steel (WCS) were locked out by management during the course of collective bargaining with Local 6, the employees' certified bargaining agent. At that point, WCS shares were held by Cominco. Two days after the lockout, the operation was sold to IPSCO. New management examined the possibility of reopening but ultimately decided against it, closing the facility and selling off the assets and equipment.

Local 6, the employees' certified bargaining agent at the two divisions of WCS brought an application alleging that the company breached its duty to bargain in good faith under Section 6 in two ways. First, WCS engaged in an illegal lockout that was designed not to compel a resolution of the terms and conditions of employment but rather to avoid payment of employee severance payments totalling $1.8 million. Second, the union claimed that WCS proposed illegal and/or provocative terms during discussions for a shutdown agreement.

The panel dismissed both arguments, finding that the decision to close the plant was made for bona fide business reasons rather than the defeat of the employee severance claims. It found no anti-union animus in the employer's actions. Further, it concluded that the company did not make illegal or provocative proposals and that it was the union, not the company, that withdrew from shutdown agreement discussions. Finally, the proposals were not 'clearly illegal' so the panel was not prepared to inquire further into the reasonableness of the employer's actions.

Local 6 also alleged that because closure of the mill was effected primarily to decertify the union, WCS breached Section 3 of the Act, that is interfered with the administration of a trade union, refused to continue to employ employees because of trade union membership and intimidated or threatened employees with dismissal. More specifically, the union claimed that the company was motivated by the fact that it would receive $10 million more in the purchase price, if the facility was freed of its obligations under Local 6's bargaining certificate. It also claimed interference when the company CEO provided an employee list to two employees who expressed interest in making a decertification application.

Both these grounds were dismissed by the panel. To begin with, the evidence showed that the purchaser was prepared to pay the higher price for the mill even with the union's bargaining authority intact. As for providing the employee list, the panel concluded that such action could constitute an unfair labour practice. However, it did not in these circumstances because the employees approached the CEO, because no decertification application was ever filed and because the CEO made it clear to the employees that decertification would not guarantee reopening of the mill. Finally, because the list was given to the employees after the sale agreement was reached, any motivation to improve the price was deemed irrelevant to the CEO's actions.

The panel also rejected the argument that the company incited picket line violence in order to apply for an injunction permitting the removal of product from behind picket lines. In this way, said the union, the employer discouraged picket line activity and discouraged and intimidated the union and its members in the conduct of their picket line, contrary to Section 3(3)(a) of the Act. While conceding that "a company can breach Section 3 of the Act by planning to lawfully remove material from behind a picket line in a manner that will provoke an unlawful response from the union" (at 57), the panel found no evidence of unlawful or provocative conduct in this case.

Whether or not the purchaser WCS(IPSCO) breached its duty to bargain in good faith was the last issue canvassed in the decision. The Union argued that the company was under a duty to bargain in good faith and had breached that duty in several, significant ways: unlawfully setting three pre-conditions and ultimatums to bargaining; proposing illegal terms in a collective agreement and refusing to explain, discuss or justify its position. But on the evidence, the panel was not satisfied that a breach occurred.

To begin with, the panel agreed with WCS(IPSCO) that there was no duty to bargain in good faith in the circumstances. While conceding that a certified bargaining agent retains the right to represent the interests of employees of a closed down facility until the certification is cancelled or abandoned, an employer who has closed down an enterprise for bona fide reasons is under no obligation to bargain with the union just because picketing activity continues. The duty to recognize the union arises if the union decides to reopen the economic venture. In this case, the duty to bargain lapsed when WCS shut down the mill, only to be revived when the purchaser announced the possibility of reopening if a suitable agreement could be reached.

The panel also agreed that the parties were entitled to discuss pre-conditions to bargaining and that once strike action commenced, the ground rules changed. The parties are then free to withdraw all previous offers; they may make an entirely new set of proposals and may set out conditions for the resumption of bargaining. "Further, an allegation of a failure to bargain in good faith will not be sustained unless a party is willing to make significant concessions from its position prior to the onset of economic sanctions." (at 69)

The panel determined that collective bargaining did not take place when in a meeting the employer gave the union a document containing certain terms. This session was not, according to the panel, collective bargaining because the company expressly refused to discuss the contents of the document and because the document, which did not provide for rates of pay, did not meet the Act's definition of collective agreement. At that stage, the parties were still discussing pre-conditions to bargaining. The company set forth five conditions that it termed "non-starters"; that is, matters that had to be agreed to prior to the discussion of other terms and conditions in the agreement. However, a mediation session with the Disputes Resolution Division of the Council did constitute collective bargaining because "[a]ll the Act requires is that the parties meet to attempt to negotiate a collective agreement. Provided the requisite intent is present, it matters not whether the meetings are conducted with the assistance of a neutral third party." (at 70) Moreover, if the parties were engaged in collective bargaining rather than the negotiation of conditions leading up to collective bargaining, the preconditions were neither illegal nor provocative. The conduct of the company simply did not support such a finding:

> To begin with, illegal terms, preconditions, and ultimatums must all be addressed in the context of the totality of the conduct of the parties. The Council will look at all of the conduct of a party to determine if the requisite intent exists to reach a collective agreement.
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> (at 72)

In the context of the plant's closure and general economic condition, the company's five non-starters did not breach the duty to bargain in good faith.

Finally, the panel dismissed the argument that the company illegally discriminated against the union by proposing a plan to rehire Local 6 members out of seniority. It found nothing improper in proposing such an action and would not determine the point of whether such action might have breached the Act if the parties had agreed to such a term. The latter argument was dismissed as academic. Even though only the shares of WCS changed hands, the panel distinguished between the management regimes that existed before and after the transfer and refused to hold IPSCO management responsible for conduct that occurred under Cominco

management. In view of the earlier finding that the Cominco management did not commit an unfair labour practice, there is no course of unacceptable conduct that can follow through to WCS(IPSCO).

LAST OFFER VOTE

Overwaitea Foods applied under Section 137.7(4) to the Commissioner for a last offer vote to be conducted among the employees at 17 of its unionized stores across the Province. Although employees at each store were in separate bargaining units, they had bargained together for the previous 15 years and (with one exception) were bound by an identical collective agreement. The employer sought to have the vote conducted separately, at each of the 17 locations and to have the results at one location counted and binding on that location only. The Commissioner rejected this suggestion in exercising his broad jurisdiction under Section 137.7(5) to determine the manner in which the vote should be held. He concluded that the parties had been well served for 15 years by the negotiation of a master agreement and even though he was not bound by the practice of the parties, a departure from it could destabilize the parties' relationship. Accordingly he ordered the vote at all 17 locations to be counted together and the results to bind the employees at all 17 locations. Finally, the union unsuccessfully argued that a last offer vote which it conducted eliminated the need for a Council supervised vote:

> I do not have the discretion to refuse a request where, as here, it is arguable that a vote would not be an efficient use of the Council's time and resources, and those of the parties. The wording of the statute does not support such an interpretation. Nor am I able to refuse simply because the Union has conducted its own vote and ascertained that a majority of the employees do not favour the last offer. This is true even where I may be satisfied that the offer was fairly put to the employees and the vote constituted an accurate reflection of the employees' true wishes at the time. I observe parenthetically that six weeks or more have now elapsed since the first of the votes in this case were held.
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> (at 9)

TRADE UNION MATTERS

Compulsory BCTF Membership

Teachers continued to litigate the question of compulsory BCTF membership in 1990. In Harper, Cook C80/90 (reconsideration of IRC No. C211/89), the Council reaffirmed a 1989 decision upholding the requirement of compulsory BCTF membership as a condition of membership in a local teachers' association. Like the original panel, the reconsideration panel would not uphold the requirement of BCTF membership as a term in a collective agreement, but did uphold the requirement for dual membership through interlocking constitutional requirements:

> This Panel finds no reason to disagree with the original approach or with the conclusion that the BCTF membership requirement is a fair and reasonable condition given the historic link between the BCTF and local teachers' associations. The original panel associated a fair and reasonable condition of membership with the need for a statutory or labour relations purpose. It also eliminated as unreasonable any conditions or terms that "offend any specific section of the Act and/or run counter to the purposes and objects of the legislation." (at 27) Moreover, it concluded that an otherwise unreasonable

> condition of membership could not be made reasonable simply because it has been endorsed by a majority of the membership. Finally, it found that the traditional position of the BCTF as an advocate for teachers over the years in a number of education and related issues gives that organization a unique place in the collective bargaining system chosen by teachers to represent their interests at the bargaining table. This holds true even though the BCTF is not the certified bargaining agent of teachers in this Province.
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> (at 12)

Unlike the original panel, however, the reconsideration panel declined to make any comments on the relationship of Sections 5(2) - which requires all terms of membership to be fair and reasonable - 5.1 - which, on its face, precludes termination from employment for loss of trade union membership. It concluded that 5.1 is operative only where there has been an expulsion, suspension, denial or withdrawal from membership and where the local association has demanded termination of employment. Because the issue here was characterized as a refusal by the teachers to join and because no termination was demanded, Section 5.1 was found not to apply.

Finally, the panel upheld the dues payment system whereby the local association is allowed to remit some of its dues to the BCTF, since membership, via the interlocking constitutional system described above, is fair and reasonable. But the panel refused to retroactively invalidate the existing dues deduction system or to require the BCTF to repay all of the dues collected through a system that was found in breach of the Act: "A mere error in form - deduction of dues pursuant to a collective agreement rather than interlocking constitutional provisions - does not nullify what is in substance a valid payment with an important underlying labour relations purpose." (at 14)

No Expulsion for Dual Membership

The question of whether a trade union could expel members who belong to other unions was canvassed in Ollesch, Betts and Campagnolo C75/90. Two members were expelled from the United Brotherhood of Carpenters and Joiners of America, Local Unions 452 and 1251 for belonging to another, so-called rival union, the General Workers Union. The individuals complained to the Council that the latter requirement was unfair and unreasonable, and thus contrary to Section 5(2). The panel agreed with them and restored them to membership in good standing. In so holding, the panel rejected the union's argument that the dual membership prohibition was essential to retain loyalty:

> To establish disloyalty, a union must point to evidence of a member's conduct which actually harms the union's institutional interests .... Membership in a competing union does not, in and of itself, pose a danger in terms of breach of confidentiality or sabotage to the interests of either union, any more than for example, such a danger would arise to employers simply because a "rank and file" employee working part-time for one employer also worked part-time for a competitor in order to make a living. The Complainants in this case are not and have never been in the trade union equivalent of an employer 'boardroom' and although they have access to information confidential to both the GWU and the Union, they are not interested in union politics or in acting as a conduit for 'trade secrets' between the two unions ... If the Union requires its members to prove their loyalty by remaining out of work indefinitely, or to reject good job offers and seek work only with union-approved employers, we find that to be an onerous and inequitable obligation. Moreover, as aforesaid, it is a dubious test of loyalty.
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> (at 38, 39-40)

The panel was influenced by the fact that membership in other unions, with competing jurisdictions, such as CUPE and IWA, was not treated by the Carpenters in the same way as membership in the GWU. In the case of CUPE or IWA membership, the rule against dual membership was not enforced. The panel was also influenced by the fact that there was widespread unemployment and no work available to the applicants through the union hiring hall. The fact that construction workers do not enjoy the "relative security of employment" as that of workers in other industries and because of the cyclical nature of construction work were other factors which convinced the panel that the dual membership prohibition was unreasonable and unfair.

SECTION 108

Discipline of Union Officers

On a Section 108 application in Workers Compensation Board C217/90, the Council refused to uphold an arbitration decision that immunized an employee acting as a union representative from discipline:

> What constitutes just and reasonable cause for discipline is, in the vast majority of situations, a question of contract and one which the Council will not interfere with. The fundamental right of the employer to impose discipline for just and reasonable cause, however, is beyond doubt. It is contrary to the Act for an arbitration board to conclude that an employer cannot, for just and reasonable cause, discipline an employee. The majority's conclusion that an employee acting in the capacity of a union rep can never be disciplined is wrong.
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> (at 8)

Nevertheless, the Council refused to interfere with the alternate finding of the arbitrator that the grievors' conduct "remarkably rude and discourteous comments with a high degree of verbal aggression" did not warrant discipline. (At 9, C217/90, quoting from p. 1 of arbitration award.)

Grievor as Employer Witness in Discipline Case

Wire Rope Industries Ltd. IRC No. C68/90 is the final Council decision concerned with a matter that began at the predecessor Labour Relations Board. The case began in 1985 when an arbitrator permitted the employer to call the grievor as its first witness in a dismissal grievance. Based on the approach taken by the civil courts, the arbitrator then permitted the employer to cross-examine the grievor as a hostile witness. When the arbitrator upheld the dismissal, the union successfully applied to the LRB under Section 108. It successfully argued that there had been a breach of natural justice when the arbitrator allowed the employer to call the grievor as its first witness. When bias allegations against a member of the Section 108 panel were successful (see IRC No. C19/88) the decision was overturned and the Council invited submissions with respect to the merits of the original application. It ultimately decided to not interfere with the arbitrator's ruling on the basis of this procedural point.

In the decision on the substantive point, the Council reaffirmed the principle expressed in Sections 93(3) and 92(3). That is, the arbitrator must have regard to the real substance of the matters in dispute and is required to apply principles consistent with the industrial relations policy underlying the Act. Subject to these restrictions, the arbitrator has a broad discretion to receive or accept evidence for "a full consideration of the matters before the arbitration board in the same manner as a court of record in civil cases." (Section 102(1)) When determining whether or not the employer should be able to call the grievor as its first witness, the criteria to be considered is as follows:

(i) Did the employer give the grievor and the union reasonable notice that it intended to call the grievor as a witness?

(ii) Was the greivor adequately apprised of the case against him before being called as a witness by the employer?

(iii) If the employer did not give the union and the grievor reasonable notice of its intention to call the grievor as a witness, was an adjournment requested by the union and ultimately granted by the arbitrator?

(iv) What was the employer's purpose for calling the grievor as its witness? For example, was it for the purpose of leading evidence to assist in proving its case, or was it solely for the purpose of discrediting the grievor?

The question is to be determined by the arbitrator in accordance with all of the circumstances. In the instant case, there was no breach of natural justice since the grievor was well apprised of the case against him; indeed, he had not disclosed to the employer specific details of what he had been doing at the time of the incident. Although no notice was given to the grievor that he was going to be called as an employer witness, the union did not request an adjournment for an opportunity to prepare the grievor. Thus, the ruling of the arbitrator was upheld and the application for reconsideration was dismissed.

INTERNAL COUNCIL MATTERS

In C129/90, the Council reconsidered bias allegations made against members of another panel of the Council whose decision was issued in C169/89. C169/89 exempted Nancy and Justin Wasilifsky from trade union membership, on the basis of their religious opposition to abortion, under Section 11 of the Act. Subsequent to that decision, the BCTF and local teachers' association alleged that a member of the C169/89 panel was biased because of her personal views on abortion. A similar claim was made against the Senior Solicitor who was present at the hearing.

The bias allegations were dismissed by the original panel hearing that application and then by the reconsideration panel. The reconsideration panel, in dismissing the allegations on their merits, cited a Supreme Court of Canada decision which dismissed a similar bias allegation made against one of its members. (Allegations were made against Grandpre, J. in a case involving Dr. Henry Morgentaler, to the effect that the judge was biased because of strongly held personal opposition to abortion and because of certain anti-abortion speeches made by him before he was appointed to the bench.) In reliance on the reasoning of the Supreme Court, the Council dismissed the allegations made against both the Vice-Chairman and Senior Solicitor:

> The reasoning used by the original panel in the instant case in disposing of this matter is on all fours with the reasoning of the Supreme Court of Canada [in Morgentaler v. The Queen, S.C.C. No. 13504, October 2, 1974, reported in McGill Law Journal, Vol. 29, page 405]. Moreover, the statement of the Majority in C169/89 that the case was not about abortion echoes in the words of the Supreme Court of Canada above.
>
> With respect to the matter of the Senior Solicitor, the original panel disposed of the Applicants' allegations by pointing out that the role of the Senior Solicitor is to advise and not to decide. There was no evidence that the Senior Solicitor gave legal advice to the panel let alone participated in decision making

> on an issue or any issue with regard to the case. Moreover, his role, as described by the original panel, was akin to that of a law clerk to a Justice and any advice that he gave, if he gave any, could be easily and entirely disregarded. A reasonable person well informed and familiar with all the circumstances could not justifiably conclude that the decision making process was tainted by the 'bias' of a legal advisor. If the expression of view of a decision maker on questions which have legal connotations is not a disqualifying consideration, we fail to see how an expression of views of an advisor could be.
>
> (at 8-9)

The panel also ruled that even if it had found bias it would have dismissed this application since any problems arising from the earlier proceedings would be eliminated by a plenary reconsideration.

VI JUDICIAL REVIEW

There follows a list of court cases decided in 1990 which reviewed decisions of the Council.

1. International Union of Operating Engineers, Local 115 et al. v. Canadian Association of Industrial Mechanical and Allied Workers, Local 19 and Westmin Resources Limited and Industrial Relations Council (26 July 1990) reported at 71 D.L.R. (4th) 577 and 48 B.C.L.R. (2d) 321 (B.C.C.A.); (13 September 1990), Ottawa 22068 (S.C.C. leave to appeal dismissed);

2. Canadian Association of Industrial Mechanical and Allied Workers, Local 19 v. International Union of Operating Engineers, Local 115 and Westmin Resources Limited and Industrial Relations Council et al. (26 July 1990), Vancouver CA010211 (B.C.C.A.).

The Court of Appeal, in two split decisions, dealt with the language of Sections 39 and 43 of the Act. The Court found that Section 43 requires that a "raid" vote be held within ten days under Section 43(1). This was found to be a "mandatory duty." The Court found the word "period" in Section 39(6) had meaning only in respect to "a collective agreement or renewal or continuation of it." Where there was not a renewal or continuation of a collective agreement, the time bar under Section 39(3) arose only where "one or more applications had been made during a period." The Court found that the application made by the union to displace CAIMAW in November 1987 was timely and ought to have been so held. The Court stated that "undesirable consequences" and matters which are "conducive to good labour relations" do not provide a sufficient basis to ignore the words of the statute even though such wording may be "imprecise and convoluted." [N.B. an application to stay the effect of the above decision was granted pending leave to appeal to the Supreme Court of Canada. The Supreme Court of Canada dismissed the motion for leave to appeal on September 13, 1990.]

3. Teamsters Local Union No. 213 v. Rocky C. Zantolas and Industrial Relations Council et al. (22 November 1990), Vancouver CA011627 (B.C.C.A.).

The union appealed a Supreme Court decision dismissing its petition and finding that the Council decision at issue was not patently unreasonable and indeed was correct. This is a particularly significant decision, because it is the first Court of Appeal decision in which the Supreme Court of Canada decision in Bibeault, [1988] 2 S.C.R. 1048 has been discussed in relation to the Council's jurisdiction. Here, Section 5(2)(a) of the Act has been determined to be a substantive rather than jurisdictional section. The Court determined that under Section 5 the Council has the jurisdiction to look at the fairness and reasonableness of the penalty imposed on a union member as well as the cause for such a penalty. In a unanimous decision, the Court found that Section 5 is not a provision of the Act conferring jurisdiction on the Council but is a substantive provision placing an obligation on a trade union. In dismissing the union's appeal, the Court referred, with approval, to the reasoning in Paul E. Fisher, see #6 below.

4. Hospital Employees Union, et al. v. British Columbia Society of Respiratory Therapists and Industrial Relations Council et al. (10 May 1990), Vancouver A891952 (B.C.S.C.).

The union sought to set aside a decision of the original panel (upheld on reconsideration) which granted an application by the B.C. Society of Respiratory Therapists under Section 34(1)(l) to move respiratory therapists from the H.E.U. bargaining unit to the H.S.A. bargaining unit. The union's principal arguments were that the Council did not have the authority to move the employees under Section 34 but rather was required to follow the certification and decertification provisions of the Act and also that the Society lacked the standing to bring the application before the Council and also that the union had been denied a fair hearing. In

dismissing the petition, the Court found the Council's interpretation of Section 34 was not patently unreasonable and that the definition of "person" in the Act must be interpreted broadly in harmony with both the context and objects of the Act. With regard to the union's argument that they had been denied a fair hearing before the Industrial Relations Council, the Court noted both the unions had refused to appear before the IRC or make any representations. In such circumstance, the Court held that there had been a proper hearing on the original application and to allow the union to succeed on its application would permit it "...to play fast and loose with the fair procedure and the protections of natural justice that were accorded to but disdained by [the union] in the original hearing." [N.B. This decision is presently under appeal.]

5. Health Sciences Association of British Columbia v. Industrial Relations Council and Versa Services, A Division of VS Services Ltd. et al. (28 September 1990), Vancouver A892980 (B.C.S.C.).

The Council, in a Section 36 decision, had overturned a Section 108 decision that had upheld an arbitration award. The reconsideration panel overturned the arbitrator's finding that he was, in the circumstances, the proper forum for the determination as to who was the employer/employee. The reconsideration panel also stated that a third party that was "a party affected" under Section 108 had standing on the Section 108 application before the Council. The determinations as to forum and standing were both the subject of the judicial review. In overturning the decision of the Council, the Court held that the Council's finding that, in the circumstances, it had exclusive jurisdiction to determine the issue of employee status was patently unreasonable. On the question of standing, the Court found that the Council's grant of standing to the "third party" in this case, was patently unreasonable. [N.B. This decision is presently under appeal.]

6. Paul E. Fisher Construction Corp. and Murray River Construction Ltd. v. Industrial Relations Council and Teamsters Local Union No. 213 (9 May 1990) reported at 46 B.C.L.R. (2d) 222 (B.C.S.C.).

The employer petitioned the Court for a ruling that the Council had been patently unreasonable in the manner in which it interpreted Section 66(1.1) dealing with termination of a collective agreement where an employer has not employed a person as an employee in a unit for a period of two years. In addition, the employer had argued that reliance on Council decisions that occurred after the hearing but before the decision constituted a breach of natural justice and procedural fairness. The Court dismissed both of the employer's arguments and found that the Council had not acted in a patently unreasonable manner. With regard to the argument on natural justice principles, the Court found that had there been any absence of natural justice in the original panel decision it was cured by the presence of natural justice in the reconsideration panel decision. [N.B. This decision is presently under appeal.]

7. British Columbia and Yukon Territory Building & Construction Trades Council et al. v. Industrial Relations Council and Conforb Construction, A Division of Conforb Management Ltd. et al. (20 March 1990), Vancouver A900443 (B.C.S.C.).

The petitioning unions challenged two Council decisions which declined to order representation votes under Section 43(1) of the Act. The Council panels did not order representation votes because there was insufficient evidence to establish that the employees which the applicants sought to represent were employed by the employers named in the certification applications. Neither applicant applied for reconsideration of the original panel decision, but rather sought judicial review. The Supreme Court judge declined to exercise discretion to hear the merits of

the application because the petitioners had failed to exhaust their internal remedies at the Council in that they had not exercised their right to apply for reconsideration of the original panel decisions. For this reason the petition was dismissed.

8. British Columbia Ferry Corporation v. Industrial Relations Council and Jim Hardwick (21 August 1990), Vancouver A900878 (B.C.S.C.).

The Council had found a Section 7 breach of the duty of fair representation and ordered the matter referred to an arbitration board consisting of a sole arbitrator. The petitioning employer argued that by referring the grievance to a single arbitrator where the collective agreement provided for the composition of the board of arbitration, the Council acted without jurisdiction. Secondly, the petitioner argued that it had not had appropriate notice of the remedial aspect of the case and, as a result, was not given an opportunity to make the arguments it would like to have made to the Council. In dismissing the petition the Court reasserted the wide and expansive interpretation which should be given to the remedial powers of the Council and found that the Council had balanced the three rights that are at issue in a Section 7 application: those of the union, the employer and the individual himself. The petitioner's argument that it had not been given a chance to respond on the issue of remedy was summarily dismissed by the Court.

9. Independent Canadian Transit Union v. British Columbia Transit Authority and Industrial Relations Council (26 March 1990), Vancouver A891467 (B.C.S.C.).

The union sought to set aside a reconsideration decision which had upheld a decision of an original panel under Section 108. The Court perfunctorily dismissed the union's application and held that the reconsideration panel was not only far from patently unreasonable but was correct in holding that the original panel properly interpreted principles reflected in the legislation and fully considered the question of a fair hearing. [N.B. This decision is presently under appeal.]

VII CASELOAD

In describing the tribunal's caseload during 1990, the Disputes Resolution Division will be examined separately from the Adjudication Division. The statistical assumptions upon which caseload data are based are described on page 47 as a preface to the Appendix of Statistical Tables.

ADJUDICATION DIVISION

A. 1989-90 COMPARISONS

In 1990, the Council received a total of 3,300 applications and disposed of 3,288 applications. As explained in the preface to the Appendix of Statistical Tables, the statistical base for counting strike and lockout observer appointments was changed in 1988. In 1989 the category, previously reported in a footnote, "To file an Order in the Supreme Court" was added to Table 1.

Applications Filed

In 1990, applications filed with the Council increased from 1989 in nine of the 31 categories, illustrated in Table 1:

applications regarding alleged unlawful alteration of employment terms and conditions (125%), to alter the terms and/or conditions of employment (100%), to vary an accreditation (91%), alleging unfair labour practices (60%), for an interpretation of the legislation as it applies to the collective bargaining relationship (22%), for a common employer declaration (16%), for the appointment of an officer to settle a grievance (6%), for certification (2%) and to cancel an accreditation (from 0 to 1).

Applications filed with the Council decreased from 1989 in 17 categories illustrated in Table 1:

applications regarding freedom of association (100%), for an order prohibiting a secondary boycott (80%), for essential service designations (77%), to file an order in the Supreme Court (70%), to cancel a voluntary recognition collective agreement (51%), for an interim order (51%), for an "offer last received" vote (41%), for a successor status declaration (39%), to cancel a certification (36%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (30%), to appoint a strike or lockout vote observer (29%), to vary a certification (28%), regarding strike, lockout or picketing activity (27%), for religious exemption (26%), for the appointment of an arbitrator (16%), for reconsideration of a decision (7%) and to review an arbitration award (5%).

Applications Disposed Of

In 1990, applications disposed of by the Council increased from 1989 in 10 of the 31 categories, illustrated in Table 1:

applications for a common employer declaration (186%), regarding alleged unlawful alteration of employment terms and conditions (121%), to alter the terms and/or conditions of employment (100%), alleging unfair labour practices (78%), regarding an alleged failure to execute or comply with a collective agreement (41%), for an interpretation of the legislation as it applies to the collective bargaining relationship (34%), classified as miscellaneous (12%), for

the appointment of an officer to settle a grievance (8%), for certification (4%) and for first contract arbitration (from 0 to 2).

Applications disposed of by the Council decreased from 1989 in 16 categories shown in Table 1:

applications to vary an accreditation (79%), for essential service designations (74%), regarding freedom of association (71%), to file an order in the Supreme Court (70%), for an interim order (58%), for an order prohibiting a secondary boycott (57%), for an "offer last received" vote (52%), to cancel a voluntary recognition collective agreement (51%), to cancel a certification (47%), to vary a certification (32%), for the appointment of a strike or lockout vote observer (29%), regarding strike, lockout or picketing activity (28%), for a successor status declaration (24%), for reconsideration of a decision (13%), for the appointment of an arbitrator (6%) and for religious exemption (2%).

B. CASES DEALT WITH IN 1990

Certification of Bargaining Agents

A significant aspect of the Council's workload involves applications for certifications under Section 39 of the Act, which contemplates three different kinds of applications. Under Section 39(1), a trade union may seek certification for a group of previously unorganized employees, i.e. those not subject to an existing certification or collective agreement. Sections 39(2) and 41(2) provide that a trade union may apply to be certified for a group of employees already represented by another union; these applications are commonly described as "raids." And Section 39(5) makes special provision for a joint application for certification by a number of unions.

The Council received 435 certification applications in 1990, an increase of eight from the applications received in 1989. The Council disposed of 439 certification applications in 1990, representing an increase of 15 from the applications processed in 1989. Of the 439 applications processed in 1990, 88 were withdrawn or not proceeded with, leaving 351 to be formally decided by the Council. Of these, 325 involved previously unorganized employee groups or partially organized employee groups where the union sought to represent an all-employee unit.

Of the 325 applications under Section 39(1), a total of 92 were dismissed. A vote was held on 298 of the 325 applications, and for 66 applications (22%) the result was to leave the employees without any union representation. In another three cases, the application was unsuccessful because the employees voted for another applicant union.

The Council disposed of another 26 certification applications in respect of employees in bargaining units totally represented by another union. This number represented about 7% of the total certification decisions in 1990. All of these applications were contested and involved entire bargaining units. The applicant union was successful in obtaining certification in 17 of the 26 cases.

Twenty applications pursuant to Section 39(5) of the Act (joint applications for certification by a number of trade unions), were filed with the Council in 1990.

As well, four construction project certifications were issued by the Council pursuant to Section 45(1).

In 1990, applications under Section 39(1) involved 7,685 employees, of whom 4,387 obtained union representation. By contrast, inter-union contests under Section 39(2) involved 2,277

employees, with a resulting change in union representation for 1,530 of these employees. A review of Council files indicates that of the total 26 cases and 2,277 employees, three inter-union contests resulted in more than one application and affected 531 employees (23%).

Inter-union contests between the Hospital Employees' Union and the International Union of Operating Engineers produced five applications involving 309 employees, between the International Brotherhood of Electrical Workers and the Telecommunication Workers' Union, two applications involving 157 employees and between the United Food and Commercial Workers International Union and the Christian Labour Association of Canada, two applications involving 65 employees.

In 1990, the number of employees benefiting from certification orders was 5,917, a decrease from the 6,365 employees receiving certification in 1989. The number of employees involved in a contested change of union representation increased from 674 in 1989 to 1,530 in 1990.

Unfair Labour Practices and Remedies

Sections 2, 3, 4, 5, 5.1, 6, and 7 of the Act contain various provisions relating to unfair labour practices. In 1990 the Council received 528 complaints of violations of these several provisions of the statute, an increase from the 331 received in 1989. The Council disposed of 531 complaints: 274 were settled without adjudication, usually through the assistance of an investigating officer. Of the remaining 257 complaints adjudicated by the Council, 129 were dismissed, 20 were not proceeded with and 108 resulted in remedial orders (including consent orders). Hearings were held for 166 applications, and 98 of the 257 decisions were accompanied by published reasons.

Allegations of Employer Violations

A large number of unfair labour practice complaints allege employer activity to discourage employees from organizing. Of the 531 unfair labour practice cases disposed of by the Council in 1990, 364 alleged such violations under Sections 2 and 3 of the Act. Of these complaints, 64 alleged dismissals contrary to the Act. Of the remaining 300 complaints, 250 involved allegations of improper attempts to induce or compel abstention from union membership and 50 were based on alleged interference with trade union administration.

A significant unfair labour practice complaint concerns discharge for union involvement, alleged in 64 of the 364 complaints. Fifty-nine of these complaints were brought by trade unions, three were brought by the union and an employee and two were brought by the employee alone. The Council did not proceed with two cases. Settlements were reached with the assistance of an officer in 32 cases. Thirty discharge cases required adjudication.

Thirty of the 64 dismissal complaints were withdrawn by the unions involved. Of the remaining 34 complaints, including settlements and decisions, 26 culminated in some form of relief for at least some of the employees affected.

The Council's power under Section 8(4)(c) to order reinstatement and/or back pay was the basis of 17 decisions involving 67 employees. Thirty-nine employees were reinstated with back pay. Nineteen were reinstated without back pay. Nine received cash settlements.

Eighteen complaints requested certification under Section 8(4)(e) in conjunction with a complaint under Section 3. Three of the requests were granted.

Organizing on Employer Premises

Five complaints were disposed of in 1990 alleging that trade unions had been organizing on the employers' properties during working hours. One of these complaints was filed by an employee; the other four were filed by employers. Three complaints were settled and one was dismissed. For one complaint the Council ruled a violation had occurred.

Coercion and Intimidation

Section 4(3) prohibits any coercive or intimidatory actions by a union in order to influence a person in deciding whether to be or cease being a union member. In 1990, the Council disposed of 19 applications alleging violations of this section. Ten applications were settled and six were dismissed. In three cases the Council ruled a violation had occurred.

Fair and Reasonable Conditions of Membership

The Council dealt with 20 applications under Section 5 of the Act, 16 filed by employees and four filed by employers. The Council did not proceed with one application. Nine applications were settled and five were dismissed. In five cases, the Council found that a violation had occurred.

Discriminatory Practices Restricted

Section 5.1 is a statutory provision which restricts a trade union's ability to require an employer to terminate an employee's employment, or otherwise to discriminate against an employee in regard to employment or a condition thereof, due to lack of trade union membership. The Council dealt with three complaints under this section in 1990. Two were dismissed and one was settled.

Duty to Bargain in Good Faith

There were 26 complaints disposed of alleging a refusal to bargain in good faith as required by Section 6 of the Act. Twenty-one were filed by unions and five by employers.

Of the 26 charges of failure to bargain in good faith, 18 were voluntarily resolved. Six of these complaints were dismissed. In two cases, a violation was deemed to have occurred.

Duty of Fair Representation

In 1990, the Council disposed of 94 complaints by individual employees alleging a violation by their bargaining agent of the duty of fair representation described in Section 7. Twenty-six of these complaints were voluntarily resolved through the efforts of an officer. Sixty-seven complaints were either not proceeded with or dismissed. In one case, a violation was found and the union was ordered to take the grievance to arbitration.

Religious Exemptions

In 1990, the Council received 49 applications seeking exemption for employees from the union security and dues provisions of collective agreements because of individual religious convictions or beliefs. Fifty-two such applications were disposed of by the Council. Twenty-three of the applications were granted, eight were dismissed, 19 were not proceeded with and two were withdrawn.

Votes

Representation Votes

The Council may direct that representation votes be held in a variety of circumstances under the Act. A total of 397 representation votes were directed by the Council in the applications disposed of in 1990. In all applications for certification except "alternate construction certifications" under Section 45, a representation vote is required. A representation vote will be held pursuant to Section 52(2) of the Act where the Council receives a decertification application signed by at least 45% of the employees in the bargaining unit. Under Section 53(2), the Council may order a representation vote to determine which trade union will be the bargaining agent for a unit created as a result of a successorship. The Council may order that a representation vote be conducted before declaring that one trade union has acquired the rights of another trade union due to a merger, amalgamation, or transfer of jurisdiction (See Section 54(2)). Section 40 of the Act requires the Council to conduct a representation vote before issuing a multi-employer certification. Representation votes are used to determine consent to trade union representation by dependent contractors (Section 48(1)) and by professional employees (Section 152(2)). Finally, representation votes are used to determine whether a proposed council of trade unions is representative of the employees in the proposed bargaining unit (Section 57).

A total of 315 votes were held in 321 applications for certification, 292 votes involved applications for certification under Section 39(1) of the Act. Four votes involved two certification applications for the same unit, one vote involved three certification applications for the same unit, and 23 votes were the result of raids. A total of 6,678 voters were eligible to participate in the 292 votes under Section 39(1); the union was successful in 229 out of 298 applications or 77% of the cases. A total of 2,061 voters were eligible to participate in the 23 votes resulting from "raids"; the applicant union was successful in 17 or 74% of the cases.

Twenty-nine applications to vary a certification required a vote. All of these sought to expand a presently certified bargaining unit, and the union was successful in 28 of these applications. Two of these applications were made to add dependent contractors to a bargaining unit. One was successful and one was not.

Fifty-one votes involved decertification applications made under Section 52(2) of the Act. In 46 cases, the union was decertified. The total number of employees eligible to vote for or against decertification was 778.

One vote was held as a result of a successor status application and one as the result of a consent order resolving an unfair labour practice application.

"Offer Last Received" Votes

Section 137.7 is a statutory provision introduced on July 27, 1987. Section 137.7(4) provides that before the commencement of a strike or lockout, the employer may request the commissioner to direct a vote of the employees in the affected bargaining unit regarding acceptance or rejection of the employer's offer last received by the trade union. Under Section 137.7(5), a trade union may request the commissioner to direct that a vote be taken of employers in an employers' organization as to the acceptance or rejection of the trade union's offer last received by the employers' organization. Moreover, during a strike or lockout the commissioner may, on his own motion pursuant to Section 137.7(9) or (10), direct that a "final offer vote" be held if he considers it in the public interest to do so. Section 137.7(6) provides that where a vote favours the acceptance of a "final offer," an agreement is thereby constituted between the parties.

In 1990, nine applications under Section 137.7(4) were filed and nine such applications were disposed of. Eight of these applications were granted and one was dismissed. In one case the parties reached an agreement prior to the vote being held. In the remaining seven cases, the employees voted to reject the offer. No applications were filed under Section 137.7(5), nor did the commissioner direct any votes pursuant to Section 137.7(9) or (10) of the Act. One application under Section 137.7(9) was dismissed by the Council.

First Contract Arbitration

After a trade union has been certified as bargaining agent for a group of employees, it will commence bargaining with the employer to conclude a first collective agreement. If the parties are unable to reach a first collective agreement, Section 137.5 of the Act provides that upon the request of a party, the commissioner may constitute a panel of the Council to inquire into the dispute and if he considers it advisable, to settle the terms and conditions of the agreement. Section 137.5 was introduced on July 27, 1987, and replaces Section 70 which provided that such a dispute would be referred to the tribunal by the Minister of Labour.

One application by a party for first contract arbitration was received by the Council in 1990. The Council disposed of two such applications (including one held over from 1989); one was settled and one was dismissed.

Failure to Execute or Comply with a Collective Agreement

In 1990, the Council received 29 applications alleging violation of Section 65(1) or (2) of the Act. It disposed of 31 such applications, 19 of which were settled and six dismissed. In six cases violations were found.

Delay or Unrest in Settling a Difference

In 1990, the Council received and disposed of four applications under Section 97 alleging undue delay in resolving a difference arising during the term of a collective agreement. One application was granted, one was dismissed and two were settled by the parties.

Alteration of Employment Terms and Conditions

Section 51 of the Act requires the Council's consent to changes in working conditions while a certification application is pending. Section 61 imposes the same requirement for four months following certification or until a collective agreement is executed, whichever occurs first. In 1990 the Council received and disposed of six applications seeking permission to alter terms and conditions of employment. Five applications were granted and one was dismissed.

In 1990, the Council received 63 applications alleging violation of Section 51 or 61 of the Act and disposed of 62 such applications. Forty-two of the applications were settled, three were dismissed, in 12 cases consent orders were issued and in five cases violations were found.

Questions Arising Under the Act

Section 34 of the Act describes the Council's exclusive jurisdiction to decide any question arising under the Act, including whether certain individuals are "employees" and thus appropriately included in a bargaining unit. In 1990, 112 such applications were filed with the Council. A total of 99 applications were disposed of by the Council, 60 of same involving the question as to whether individuals were "employees" under the Act and/or included in a specific bargaining unit. For 41 of the 99 applications a ruling was made, five were not proceeded with and 53 were withdrawn.

Declaratory Opinion

The Council received 16 applications in 1990 requesting that it render a declaratory opinion (other than applications pertaining to Part 5 of the Act). The Council disposed of 17 applications. In four cases, an opinion was issued. Five applications were dismissed and eight applications were withdrawn.

Variance of Certification

In 1990, the Council received a total of 267 applications for certification variance, a decrease of 28% from 1989. As in previous years, most of the applications involved a simple change in the name or address of the employer or the trade union. The Council disposed of 251 applications for certification variance, granting 223 of the applications. Forty-five of the applications to vary a certification sought to expand a bargaining unit. Twenty-nine of these were granted, adding 362 employees and three dependent contractors to existing certifications. Votes were conducted to decide 28 of the 29 applications.

Declaration of Successor Employer

Section 53 provides for the automatic transfer of union certification and the collective agreement when a business is disposed of, for example, by sale or lease. In 1990, the Council received 118 applications for a declaration of successor employer status. The Council disposed of 121 such applications in 1990, granting 93, while 18 were withdrawn and 10 were dismissed.

Declaration of Successor Trade Union

In 1990 the Council received 34 applications for declaration under Section 54 of the Act, on the bargaining rights of successor trade unions resulting from a union merger, amalgamation, or a transfer of jurisdiction. The Council disposed of 19 such applications, granting 17. Two were withdrawn.

Declaration of Common Employer

In 1990, the Council received 29 applications for declarations under Section 37 of the Act to treat two or more businesses as constituting one employer. A total of 40 applications under Section 37 were disposed of, 14 of them involving enterprises in the construction industry. Eighteen applications were settled or withdrawn. Of the remaining 22, the Council granted 11 declarations with respect to at least some of the businesses named in the application. The balance were dismissed.

Essential Services Designation

The Council received 19 applications requesting essential service designations in 1990, and disposed of 21 such applications. Three orders were issued and 18 applications were settled by the parties.

Resolving Grievances under a Collective Agreement

Section 96 of the Act provides the Council with a comprehensive original jurisdiction to resolve grievances arising under the provisions of a collective agreement. In 1990, the Council received 115 applications under Section 96 requesting the assistance of an officer to settle a difference arising during the term of a collective agreement. A total of 115 applications under Section 96 were disposed of by the Council, with 76 voluntarily settled, virtually all through the efforts of an officer. This represents a settlement rate of 66%, a major benefit to the labour relations community, given that the parties voluntarily resolved their differences and a potentially serious

overloading of the arbitration procedure is thereby avoided. If the officer appointed by the Council does not achieve a resolution of the arbitrable difference, the Council may either refer the matter back to the parties, or inquire into the difference itself and make an order to finally resolve it. Of the 115 applications disposed of in 1990 under Section 96, 39 were not settled through officer mediation. Two of these applications were not proceeded with, one was determined to be non-arbitrable and 20 were referred back to the parties. The remaining 16 were adjudicated by the Council, 15 of which turned on issues which could be disposed of on the basis of the officer's report and written submissions from the parties.

Review of Arbitration Awards

Section 108 of the Act gives the Council authority to review arbitration awards delivered under collective agreements. In 1990, the Council received 42 applications and disposed of 41 under Section 108. Of the latter, 21 were brought by employers, 13 by unions, one by an employer association and six by grievers. Five dealt with arbitration awards regarding discharge grievances.

Section 108 affords only a limited review of an arbitration award rather than an extensive scope of appeal. This policy of limited interference in grievance arbitration is reflected in the fact that of the 41 applications disposed of during the year, in only six cases were the arbitrators' decisions set aside. In three cases, the awards were referred back to the arbitrators. In the other three cases, the Council substituted other awards. Four applications under Section 108 were withdrawn and 31 were dismissed. Of the 37 applications adjudicated by the Council, four were dealt with in a formal hearing and 28 were disposed of with reasons for decision issued to the labour relations community at large.

Accredited Employers' Organizations

No applications were received in 1990 for accreditation of an employer organization as a bargaining agent of employers.

Twenty-one applications were made to vary an accreditation and 20 applications disposed of: all were granted. (See Table 1 and footnotes thereto in the Statistical Appendix).

The Council received one application to cancel an accreditation.

Strikes, Lockouts and Picketing

A total of 182 applications relating to strikes, lockouts and picketing were received by the Council in 1990. The Council disposed of 183 cases: 59 applications alleged illegal strike activity, eight alleged illegal lockouts and 116 concerned picketing activity. Of the 183 applications disposed of, 90 were settled without formal adjudication. These included 28 of the 59 strike applications, three of the eight lockout applications and 59 of the 116 picketing applications.

Of the 93 applications which required formal adjudication, 83 resulted in orders or opinions and 10 were dismissed. Thirty-one of the applications requiring adjudication involved some sort of strike activity, five involved alleged lockouts and 57 involved picketing activity.

Strikes and Lockouts

A fundamental principle of the Act is that the legality of a strike or lockout depends upon its timing. Section 93 requires that all disputes arising under a collective agreement are to be resolved, without work stoppage, by arbitration or another method agreed to by the parties. Sections 79 and 79.1 also contemplate that strikes and lockouts are prohibited during the term

or operation of a collective agreement. Moreover, Sections 80 through 83 of the Act stipulate certain preconditions to the legality of a strike or lockout.

In 1990, the Council disposed of 59 applications alleging illegal strike activity. Of the 31 applications which required adjudication, 18 alleged threatened or actual illegal job action while a collective agreement was in effect. For 15 of the 18 applications, the Council ruled that a violation of the Act had occurred or would occur, while one application was resolved with a consent order. Another 10 of the adjudicated strike applications alleged a violation of statutory preconditions to legal job action. For all 10 applications, the Council ruled that a violation of the Act had occurred or would occur. Finally, in three of the 31 applications requiring adjudication, relief was requested under Section 90. In two of the three applications, relief was granted.

The Council adjudicated five applications during 1990 alleging illegal lockouts. Four were dismissed. In one case, the Council ruled a violation had occurred.

Picketing

Sections 85 through 88 of the Act delineate the scope of legal picketing activities by trade unions. In the 1990 report year, 116 applications relating to picketing were disposed of by the Council, 89 filed by employers and 27 by unions. See Table 7 in the Statistical Appendix for an illustration of the nature and disposition of these applications.

Termination of Bargaining Rights

Section 52 of the Act deals with the cancellation of trade union certifications. The Council received 143 and disposed of 121 such applications in 1990. Of the latter, 76 were filed by groups of employees, 41 were filed by employers, and four were filed by trade unions. The Council granted 75 of the 121 applications, 40 were rejected or not proceeded with and six were withdrawn. See Table 3 in the Statistical Appendix.

Termination of Collective Agreements

Section 66(1.1) provides that a collective agreement is deemed to be terminated where an employer has not employed a person as an employee in a unit for a period of two years. In 1990, 18 applications regarding the termination of voluntary recognition collective agreements were filed by employers. The Council disposed of 20 such applications, granting 16.

Reconsiderations

In 1990, the Council received 121 applications under Section 36 of the Act, requesting reconsideration of Council decisions. Of the 120 applications disposed of during 1990, 17 were withdrawn, 89 were dismissed and 14 resulted in a change in the original decision. For an illustration of the "success" rate of reconsideration applications, see Table 6 in the Statistical Appendix.

Trusteeship Over Local Unions

Under Section 11.1 of the Industrial Relations Act, when supervision or control over a subordinate trade union is assumed by a provincial, national or international trade union, the latter is required to file with the Council a statement setting out the terms under which the supervision or control is to be exercised, within 60 days of assuming such supervision or control. The supervision or control shall continue for not more than 12 months unless an application is received to extend the supervision or control for a further period, not exceeding 12 months. In 1990, one application regarding trusteeship was received by the Council.

DISPUTES RESOLUTION DIVISION

Section 137.2 of Part 8.1 of the Act specifies the duties of the Disputes Resolution Division:

> (a) to monitor collective bargaining between employers and bargaining agents;
>
> (b) to provide assistance to employers and bargaining agents to facilitate the making or renewing of collective agreements;
>
> (c) to gather and publish information and statistics respecting labour relations, employment and collective bargaining in the Province;
>
> (d) to administer mediation services provided under this Part, and
>
> (e) to carry out the functions imposed on it by this Part and other functions the Council considers necessary to effect the purposes of this Part.

The chairman of the Disputes Resolution Division carries the responsibilities of the Division, assisted by three mediation officers. As of December 31, 1990, Don Cott, Larry Gregg, and Malcolm Wilkinson served as mediation officers. In addition, Don Cott also acts as the Director of Mediation, and Larry Gregg as the Director of Statistics responsible for overseeing the collective bargaining data base and related publications issued by the Council. When the Minister directs the Council to designate essential services (see Section 137.8 of the Act), the commissioner may refer the matter to this Division. The provision of mediation services is described in Sections 137.3 and 137.7 of the Act. Mediation officers are also available on an informal basis. The clients are trade unions, employers, and employers' associations located throughout British Columbia. The Division maintains contact with a variety of conciliation and mediation services in Canada and the United States to exchange information on administration, legislation, trends and problems of mutual concern. The Division also makes available speakers, panelists and moderators to educational institutions as well as trade union and employer organizations.

For an analysis of mediation officer appointments and outcome of appointments in 1990, refer to Tables 9 and 10 in the Statistical Appendix.

The Division administers the Preventive Mediation Program. This program utilizes the services and expertise of mediation officers to assist labour and management in identifying and resolving existing or potential problems which affect the collective bargaining relationship. It is founded on the premise that effective labour/management relations benefit the public as well as the parties. The five elements of the program are:

- *relationship by objectives*
- *joint training*
- *grievance mediation*
- *labour-management committees*
- *first agreement orientation*

Relationship by objectives is an in-depth, conflict resolution process that brings the parties together to analyze problems of mutual concern, to establish common objectives, and to decide

on ways and means to implement those objectives. Joint training is a joint union-management training course for shop stewards and management supervisors. The training is intended to enhance the ability of supervisors and stewards to jointly deal with minor problems before they become major issues; to encourage supervisors and stewards to recognize and respect each other's roles, responsibilities and rights; to emphasize problem-solving and the mutuality of interests. ***Grievance mediation*** is a quick, inexpensive and voluntary way to resolve grievances. Representatives of labour and management meet with a mediation officer to attempt resolution of a grievance prior to arbitration. It is an informal process that has proven useful not only in resolving grievances but in identifying and resolving situations that produce grievances. ***Labour-management committees*** provide an effective forum for emphasizing two-way communication on problems that affect relations between labour and management. These committees may focus on issues that would normally arise in piecemeal fashion or which would otherwise need to be addressed through more formal mechanisms. Concerns such as working conditions, operational problems, job assignments, work scheduling and economic conditions affecting the enterprise can be effectively dealt with by labour-management committees. The Division provides assistance on how to establish and maintain such committees, including monitoring or chairing new committees. ***First agreement orientation*** is a Division service that provides information to employers and trade unions who are negotiating or are about to negotiate a collective agreement for the first time. The objective is to remove the mystique surrounding collective bargaining by providing practical information on the legislative guidelines and thereby enabling negotiations to proceed more smoothly.

The Preventive Mediation Program continued to grow in 1990. During the year Division members took part in national mediation conferences and discussed the evolution of this concept in other provinces as well as British Columbia. Such exchanges of experiences are valuable in ensuring that the best possible level of service is provided to participants in this program.

The Division saw a continued demand for the Preventive Mediation Program in 1990. As with earlier years there were many requests for the First Agreement Orientation kits. The mediation staff follows up these requests to provide additional information or clarification to ensure that the parties get their relationships off on the right foot. The parties continued to avail themselves of the grievance mediation process and through the assistance of the mediation staff the parties resolved a large majority of the disputes handled in this way. The mediation officers were also active in identifying relationships that could be improved. Many were discovered while the officers had the parties in mediation. The officers would follow up with the parties to establish joint labour/management committees to deal with problems in the bargaining relationship. In addition, some of the complex issues which are making their way to the bargaining table are best able to be handled separate from the pressure of the bargaining process and the mediators have been able to establish working committees to deal with the particular issues while still reaching a contract settlement.

COLLECTIVE BARGAINING INFORMATION SYSTEM

During 1990 the Division continued the work begun in 1988 and 1989 on the development and implementation of a computer driven data base containing compensation information on all active collective agreements within the Province.

In May 1990 the Division introduced its computer based "Collective Bargaining Information System" to the public. This on-line data base is available, on a fee for service basis, to all who wish to participate. The system contains the compensation information on collective agreements negotiated in the Province as reported to the Division. Users can view the wage and benefit details of an agreement along with the results of the Division's own costing model. After signing a service agreement with the Council the user receives a password and

communications software which will allow them to access the system from their own computer through the use of a modem and telephone line.

Since its introduction, the system has seen its list of users grown to include employers, trade unions, employer associations, law firms and labour relations consultants.

In October, the Division began the publication of its "Collective Bargaining Information Monthly Summary." This publication replaced the Ministry of Labour's Collective Bargaining Information newsletter. The Division's publication includes highlights of recent settlements, information on work stoppages in the Province, lists of expiring contracts, and a listing of all arbitration awards received in the month by the Ministry. In addition, it will continue to provide current labour force and economic information as collected by Statistics Canada.

The computer based system also allows the publication to provide detailed breakdowns of settlement trends on an overall or sector to sector basis.

The Division has also started the next phase of its computer program. This involves the ability to search the full text of collective agreements. To this point the Division's system has focused on the monetary elements of an agreement. This next project would address the needs of the users to compare the non-monetary language of agreements. It is hoped that a mechanism for allowing such a search will be available during the course of the next year.

VIII APPENDIX OF STATISTICAL TABLES

The following tables provide an analysis of the applications filed and disposed of in 1989 and 1990.

The Council has implemented a computerized Case Management System. The statistical base for the category relating to the appointment of strike and lockout observers had to be changed in 1988 to be compatible with the new system. The 1989 and 1990 Tables show the number of **applications** for appointments received and disposed of by the Council. As well, for 1989 and 1990, the number of appointments made in respect of those applications is shown in a footnote.

As in previous years, an application involving a dispute is classified as withdrawn if the request for withdrawal comes prior to the involvement of an officer or a panel. An application withdrawn following such involvement is classified as settled.

It is important to note when using these statistics as a guide that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

APPLICATIONS AND COMPLAINTS FILED AND DISPOSED OF 1989 - 1990

The category "Dismissed" includes decisions where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.

For further elaboration of the figures in the table, refer to Chapter VI and the previous page.

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
Certification Applications				
Granted			263*3	250*4
Dismissed			92	101
Not Proceeded With			0	2
Withdrawn			69	86
Sub-Total	427*1	435*2	424	439
Certification Variances				
Granted			331	223
Dismissed			10	8
Not Proceeded With			1	3
Withdrawn			27	17
Sub-Total	372	267	369	251
Certification Cancellations				
Granted			168	75
Dismissed			23	19
Not Proceeded With			33	21
Withdrawn			4	6
Sub-Total	223	143	228	121

cont.

*1 11,093 employees were included in the 427 certification applications filed in 1989.

*2 12,763 employees were included in the 435 certification applications filed in 1990.

*3 6,365 employees were included in the 263 certifications granted in 1989.

*4 5,917 employees were included in the 250 certifications granted in 1990.

The estimate of employees per application is derived from the estimate on the union applications. Variances do occur between the time of application and the time of disposal of the application. In the case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
Accreditation Applications				
Granted			0	0
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	0	0	0	0
Accreditation Variances				
Granted			94	20
Dismissed			1	0
Not Proceeded With			1	0
Withdrawn			1	0
Sub-Total	11*1	21*2	97*3	20*4
Accreditation Cancellations				
Granted			0	0
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	0	1	0	0
Declaration of Successor Status				
Granted			163	110
Dismissed			10	10
Not Proceeded With			2	0
Withdrawn			10	20
Sub-Total	249	152	185	140

cont.

*1 To add four employers, to delete four employers and to vary the names and/or addresses of two employers and two associations.

*2 To add 10 employers, to delete 18 employers and to vary the names and/or addresses of eight employers and one association.

*3 Six employers were added to accreditations, five were deleted and the names and/or addresses of 83 employers and two associations were varied. Requests to delete one employer and to vary one employer were not proceeded with or withdrawn.

*4 Ten employers were added to accreditations, 18 were deleted and the names and/or addresses of seven employers and one association were varied.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED 1989	1990	APPLICATIONS AND COMPLAINTS DISPOSED OF 1989	1990
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect				
Settled			68	76
Arbitrated			6	16
Referred Back to Parties			21	20
Not Arbitrable			4	1
Not Proceeded With			7	2
Sub-Total	109	115	106	115
Complaints of Unfair Labour Practices				
Settled			151	274
Granted			59	108
Dismissed			78	129
Not Proceeded With			11	20
Sub-Total	331	528	299	531
To Alter Conditions of Employment				
Granted			2	5
Dismissed			0	1
Not Proceeded With			0	0
Withdrawn			1	0
Sub-Total	3	6	3	6
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship				
Ruling Made			29	41
Not Proceeded With			9	5
Withdrawn			36	53
Sub-Total	92	112	74	99

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
To Cancel a Voluntary Recognition Collective Agreement				
Granted			24	16
Dismissed			4	2
Not Proceeded With			12	2
Withdrawn			1	0
Sub-Total	37	18	41	20
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement				
Settled			0	1
Contract Imposed			0	0
Dismissed			0	1
Withdrawn			0	0
Sub-Total	1	1	0	2
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)				
Settled			93	90
Granted			133	83
Dismissed			29	10
Sub-Total	250	182	255	183
To Treat Several Entities as One Employer				
Granted			3	11
Dismissed			2	11
Not Proceeded With			0	0
Withdrawn			9	18
Sub-Total	25	29	14	40

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
For Review of an Arbitration Award				
Granted			9	6
Dismissed			29	31
Not Proceeded With			1	0
Withdrawn			2	4
Sub-Total	44	42	41	41
For the Appointment(s) of Observer(s) of a Strike or Lockout Poll				
Appointment(s) Made			464*1	319*2
Withdrawn			4	13
Sub-Total	468	332	468	332
For the Appointment of an Arbitrator				
Request Acknowledged			554	518
Sub-Total	587	494	554	518
For an Interim Order				
Granted			0	0
Dismissed			8	5
Withdrawn or Not Proceeded With			30	11
Sub-Total	35	17	38	16
For an "Offer Last Received" Vote				
Granted			15*3	8*4
Dismissed			0	2
Withdrawn			6	0
Sub-Total	17	10	21	10

cont.

*1 790 observers were appointed for the 464 applications. Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike or lockout observer appointments in 1988. See the preface to the Statistical appendix for an explanation of the change.

*2 471 observers were appointed for the 319 applications.

*3 In five cases, the employees voted to reject the offer. In seven cases, they accepted the offer. In three cases, the parties reached a settlement before the vote was held.

*4 In seven cases, the employees voted to reject the offer. In one case, the parties reached a settlement before the vote was held.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
For Religious Exemption				
Granted			19	23
Dismissed			6	8
Not Proceeded With			24	19
Withdrawn			4	2
Sub-Total	66	49	53	52
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement				
Settled			13	19
Granted			2	6
Dismissed			7	6
Sub-Total	29	29	22	31
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions				
Settled			20	42
Granted			7	17
Dismissed			1	3
Sub-Total	28	63	28	62
For Essential Service Designations				
Settled			0	18
Granted			79	3
Dismissed			1	0
Sub-Total	82	19	80	21
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)				
Granted			5	4
Dismissed			4	5
Withdrawn			8	8
Sub-Total	23	16	17	17

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
For an Order Prohibiting a Secondary Boycott				
Settled			1	1
Granted			0	2
Dismissed			6	0
Sub-Total	5	1	7	3
For an Order Regarding Freedom of Association				
Settled			1	0
Granted			1	2
Dismissed			5	0
Sub-Total	5	0	7	2
To Appoint a Fact Finder				
Granted			1	1
Dismissed			0	0
Withdrawn			0	0
Sub-Total	1	1	1	1
Miscellaneous				
Settled			4	12
Granted			13	8
Dismissed			14	10
Not Proceeded With			0	1
Withdrawn			3	7
Sub-Total	39	39	34	38

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1989 - 1990

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1989	1990	1989	1990
For Reconsideration of a Decision				
Granted			24	14
Dismissed			106	89
Withdrawn			8	17
Sub-Total	130	121	138	120
To file an order in the Supreme Court				
Granted			171	51
Dismissed			1	0
Withdrawn or Not Proceeded With			18	6
Sub-Total	187	57	190	57
TOTAL	3876*	3300*	3794*	3288*

* Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike and lockout observer appointment applications in 1988. Also, applications for Interim Orders were added to the 1988 statistics. See the preface to the Statistical Appendix for an explanation of the change.

TABLE 2

CERTIFICATION APPLICATIONS DECIDED IN 1990

APPLICATIONS	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	233	92	325
Organized employees excluding those described above (S. 39(2) of the Act)	17	9	26
TOTAL	250	101	351

NUMBER OF EMPLOYEES	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	4387	3298	7685
Organized employees excluding those described above (S. 39(2) of the Act)	1530	747	2277
TOTAL	5917	4045	9962

TABLE 3

APPLICATIONS TO CANCEL CERTIFICATIONS DISPOSED OF IN 1989-1990

	NUMBER OF APPLICATIONS	
	1989	1990
Filed by the Employee(s)		
Granted	70	46
Dismissed	21	10
Not Proceeded With	28	14
Withdrawn	3	6
TOTAL	122	76
Filed by the Employer		
Granted	60	26
Dismissed	1	8
Not Proceeded With	5	7
Withdrawn	1	0
TOTAL	67	41
Filed by the Union		
Granted	38	3
Dismissed	1	1
Withdrawn	0	0
TOTAL	39	4
Summary		
Granted	168	75
Dismissed	23	19
Not Proceeded With	33	21
Withdrawn	4	6
TOTAL	228	121

TABLE 4

CERTIFICATION APPLICATIONS RESULTING IN A VOTE IN 1990

A.	Number of applications resulting in a vote for or against one union or between two unions applying for the same unit		298 out of 325* or 92%
	Number of successful applications		229
	Number of unsuccessful applications		69
	Percentage of successful applications		77%
	Total number of eligible voters involved in the 298 applications **	6678	
B.	Number of applications resulting in a choice between an applicant and an incumbent union		23 out of 26 or 88%
	Number of successful applications		17
	Number of unsuccessful applications		6
	Percentage of successful applications		74%
	Total number of eligible voters involved in the 23 applications **	2061	

* Includes four applications under S. 45 of the Act which do not require a vote.

** This figure can vary from the number of employees originally applied for. In some cases, two or more applications resulted in one vote and thus one group of eligible voters.

TABLE 5

APPEALS DISPOSED OF IN 1990

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
Certification	14	2	4	20
Appeal of a certification decision	1	1	0	2
Cancellation of a certification	1	0	0	1
Declaration of successor status	3	1	0	4
Appeal of a declaration of successor status	3	0	0	3
The disposition of a grievance under an existing collective agreement	0	1	0	1
Appeal of the disposition of a grievance under an existing collective agreement	1	0	0	1
Unfair labour practice adjudication	27	2	6	35
Appeal of an unfair labour practice adjudication	3	0	0	3
A ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	4	0	0	4
Appeal of a ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	0	1	1	2
A ruling re: more than one corporate entity being considered as one employer	0	0	1	1

cont.

TABLE 5 (cont.)

APPEALS DISPOSED OF IN 1990

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
A ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	5	0	2	7
A review of an arbitration award	8	2	2	12
Appeal of a review of an arbitration award	1	0	0	1
A ruling re: collective agreement compliance	1	0	0	1
A ruling re: a last offer vote	2	0	0	2
A ruling re: religious exemption	2	1	0	3
Appeal of a ruling re: religious exemption	1	0	0	1
Appeal of an appeal of a ruling re: religious exemption	2	0	0	2
A declaratory opinion	1	1	0	2
A ruling re: secondary boycott and/or freedom of association	3	0	0	3
A ruling re: the alteration of terms and conditions of employment	1	1	0	2
A ruling the appointment of a person resident in the Province	1	0	0	1
A ruling re: compliance with an arbitrator's award	1	0	0	1
A ruling re: procedure	3	1	1	5
TOTAL	89	14	17	120

TABLE 5 (cont.)

APPEALS DISPOSED OF IN 1990

Appellant(s)	Dismissed	Granted	Withdrawn	Total
Employer(s)	30	5	7	42
Union(s)	33	4	6	43
Employee(s)	23	4	4	31
Other	3	1	0	4
TOTAL	89	14	17	120

TABLE 6

"SUCCESS" RATE OF APPEALS

	1986	1987	1988	1989	1990
Total Applications Disposed of	174	204	185	138	120
Number of These Withdrawn	25	53	27	8	17
Number of Applications Processed to a Final Decision	149	151	158	130	103
Number of Applications Resulting in a Revision of the Original Decision	25	26	31	24	14
"Success" Rate of Appeals	17%	17%	20%	18%	14%

TABLE 7

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)
DISPOSED OF IN 1990

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
A. Dispute settled			
1. re alleged illegal lockout	3	3	0
2. re alleged illegal strike or a challenged strike vote	23	7	0
3. re picketing (employer complaint)	46	19	0
4. re picketing (trade union application for a declaratory opinion)	13	7	0
5. re activity affecting business, etc. (S.90)	5	2	0
Sub-Total	90	38	0
B. Dispute disposed of by an adjudication that:			
(a) a violation had occurred or would occur or that a specific activity should be restricted, or			
(b) that certain proposed picketing be allowed			
1. re alleged illegal lockout	1	1	1
2. re alleged illegal strike or a challenged strike vote	26	24	4
3. re picketing (employer complaint)	40	39	0
4. re picketing (trade union application for a declaratory opinion)	14	14	1
5. re activity affecting business, etc. (S.90)	2	2	1
Sub-Total	83	80	7

cont.

TABLE 7 (cont.)

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)
DISPOSED OF IN 1990

TYPE OF APPLICATION		NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION
C.	Dispute disposed of:			
(a)	by an adjudication that no violation had occurred or would occur or that a specific activity should not be restricted, or			
(b)	by a refusal to rule on the proceedings			
1.	re alleged illegal lockout	4	4	4
2.	re alleged illegal strike	2	2	1
3.	re picketing (employer complaint)	3	3	2
4.	re activity affecting business, etc. (S.90)	1	1	0
	Sub-Total	10	10	7
	TOTAL	183	128	14

Note:
The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8

1990 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
Certification Applications	0	435	0	0	435
Certification Variances	46*	221*	1	0	267*
Certification Cancellations	65	4	74	0	143
Accreditation Applications	0	0	0	0	0
Accreditation Variances	21	0	0	0	21
Accreditation Cancellations	1	0	0	0	1
Declaration of Successor Status	30*	123*	0	0	152*
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect	3	112	0	0	115
Complaints of Unfair Labour Practices	26	373*	145*	0	528*
To Alter Conditions of Employment	6*	1*	0	0	6*
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	68	41	3	0	112
To Cancel a Voluntary Recognition Collective Agreement	18	0	0	0	18
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement	0	1	0	0	1
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)	124	58	0	0	182
To Treat Several Entities as One Employer	5*	25*	0	0	29*
For Review of an Arbitration Award	20	16	6	0	42

cont.

TABLE 8 (cont.)

1990 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
For the Appointment(s) of an Observer(s) of a Strike or Lockout Poll	4	328	0	0	332
For the Appointment of an Arbitrator	0	494	0	0	494
For an Interim Order	11	3	3	0	17
For a Last Offer Vote	10	0	0	0	10
For Religious Exemption	0	0	49	0	49
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement	8	21	0	0	29
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions	0	63	0	0	63
For Essential Service Designations	0	0	0	19	19
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)	8	8	0	0	16
For an Order Prohibiting a Secondary Boycott	1	0	0	0	1
For an Order Regarding Freedom of Association	0	0	0	0	0
To Appoint a Fact Finder	0	0	0	1	1
Miscellaneous	6	29	2	2	39
For Reconsideration of a Decision	35	50	35	1	121
To file an order in the Supreme Court	30*	24*	4	0	57
TOTAL	546*	2430*	322*	23	3300*

* Totals by applicant do not equate with total applications because certain applications were filed jointly.

TABLE 9

ANALYSIS OF MEDIATION OFFICER APPOINTMENTS

Appointments continued from previous year	12
Appointments made - January 1-December 31, 1990	58
TOTAL	70
Breakdown of Appointments	
On application of employers	30
On application of trade unions	28
Joint applications	
* At direction of the Minister or Commissioner	0
TOTAL	58
Coverage of Appointments	
Number of employers involved	66
Number of units affected	67
Number of employees involved	5838
Disposition of Appointments	
Parties reached agreement	59
Parties did not reach agreement	1
Appointments continuing	9
Appointments rescinded	1
* Other	0
TOTAL	70
Additional Settlements	
Following report of the mediation officer	3
No official appointment	0
TOTAL	3

TABLE 10

DISPUTES COMPLETED BY MEDIATION OFFICERS IN 1990

Appointments	70
Less rescinded appointments	1
Less continuing	9
TOTAL	60
Plus no appointment	0
TOTAL DISPUTES COMPLETED	60
Disputes settled during mediation officer's term	56
Disputes settled after mediation officer's term	3
Disputes settled no official appointment	0
TOTAL SETTLED	59
Disputes reported not settled	1
Less settled following report	0
TOTAL NOT SETTLED	1
SUCCESS RATE OF SETTLEMENTS	98.33%

TABLE A

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(1) THE LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212 (formerly Labour Code of British Columbia, S.B.C. 1973, (2nd Sess.), c.122)	November 13, 1973 Proclamation	12, 26, 124, 139, 140, 150	Reg. 424/74, Pt.II, V.16, p.645
	December 20, 1973 Proclamation	21, 55	Reg. 12/74, Pt.II, V.17, p.158
	January 14, 1974 Proclamation	1-11, 13-20, 22-25, 27-30, 32-54, 56, 59-69, 73, 92-112, 122, 123, 125-127, 138, 141-149, 150A, 151(a), 152	Reg. 41/74, Pt.II, V.17, p.192
	January 24, 1974 Proclamation	70-72	Reg. 53/74, Pt.II, V.17, p.195
	March 1, 1974 Proclamation	74-78	Reg. 154/74, Pt.II, V.17, p.407
	March 14, 1974 Proclamation	113-121A	Reg. 174/74, Pt.II, V.17, p.433
	August 15, 1974 Proclamation	57, 58	Reg. 578/74, Pt.II, V.17, p.949
	September 2, 1974 Proclamation	31, 79-91	Reg. 606/74, Pt.II, V.17, p.998
	September 16, 1974 Proclamation	151(b) and (c)	Reg. 682/74, Pt.II, V.17, p.1116

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Statute Law Amendment Act, 1974, S.B.C. 1974, c.87, s.22	October 14, 1974 Proclamation	22(a) (among others)	Reg. 709/74, Pt.II, V.17, p.1158
	June 20, 1974 Royal Assent	22(b) - 22(i) (among others)	N/A
Essential Services Continuation Act, S.B.C. 1974, c.108, s.6	August 9, 1974 Royal Assent	6 (among others)	N/A
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107, s.6	November 26, 1974 Royal Assent	6 (among others)	N/A
Labour Code of British Columbia Amendment Act, 1975, S.B.C. 1975, c.33	June 26, 1975 Royal Assent	1-6, 8-33	N/A
	January 14, 1974 Retroactive Effect	7	N/A
Labour Code of British Columbia Amendment Act, 1976, S.B.C. 1976, c.26	June 30, 1976 Royal Assent	1-8	N/A
Miscellaneous Statutes Amendment Act, 1976, S.B.C. 1976, c.32	July 8, 1976 Proclamation	12A	Reg. 391/76, Pt.II, V.19, p.511
Labour Code of British Columbia Amendment Act, 1977, S.B.C. 1977, c.72	September 27, 1977 Royal Assent	1-12	N/A
Ministerial Titles Amendment Act, S.B.C. 1977, c.75	October 21, 1977 Proclamation	Sch. I, Ss.8(2), 127(3), 129(a), 136, 137(1)(a)	N/A
Essential Services Disputes Act, S.B.C. 1977, c.83	October 28, 1977 Proclamation	19 repeals 73(1) to (6)	N/A
Miscellaneous Statutes Amendment Act, 1978, S.B.C. 1978, c.28	July 6, 1978 Proclamation	11 amends 69	N/A
Financial Administration Act, S.B.C. 1981, c.15	November 26, 1981 Proclamation	117 repeals 139(2)	Reg. 468/81, Pt.II, V.24, p.981
Court of Appeal Act, S.B.C. 1982, c.7	September 7, 1982 Proclamation		Reg. 302/82, Pt.II, V.25, p.428

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS (cont.)

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code Amendment Act, 1982, S.B.C. 1982, c.59	August 4, 1982 Proclamation		Reg. 354/82, Pt.II, V.25, p.564
Regulations Act, S.B.C. 1983, c.10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154	Reg. 393/83, Pt.II, V.26, p.607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c.24	June 8, 1984 Regulation	1-19 except 13	Reg. 167/84, Pt.II, V.27, p.221
	August 27, 1984 Regulation	13	Reg. 274/84, Pt.II, V.27, p.358
Commercial Arbitration Act, S.B.C. 1986, c.3	July 4, 1986 Regulation	47 repeals 99(4)	Reg. 148/86
Industrial Relations Reform Act, 1987, S.B.C. 1987, c.24	July 27, 1987 Regulation	The whole Act except S.2(e) and that part of S.60 that enacts S.137.97 to S.137.99	Reg. 246/87
Miscellaneous Statutes Amendment Act (No. 5), 1987, S.B.C. 1987, c.60	December 17, 1987 Royal Assent	9 amends 26(2)	
Budget Measures Implementation Act, 1989, S.B.C. 1989, c.1	Retroactive to April 1, 1988	5 amends 123.1	

TABLE B

STATUTES CONFERRING AUTHORITY ON THE COUNCIL

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Industrial Relations Act, R.S.B.C. 1979, c.212	Refer Table A	1-127, 137.1-137.96, 138-154	
Public Service Labour Relations Act, R.S.B.C. 1979, c.346	January 3, 1974 Proclamation	1-14, 17-28 (amendments to Ss.4, 11 and 17 yet to be proclaimed)	Reg. 14/74, Pt.II, V.17, p.160
Assessment Authority Act, R.S.B.C. 1979, c.22	June 20, 1974 Royal Assent	21 (among others)	N/A
Institute of Technology Act, R.S.B.C. 1979, c.199	July 4, 1974 Proclamation	7	Reg. 485/74, Pt.II, V.17, p.788
Ferry Corporation Act, R.S.B.C. 1979, c.128	June 30, 1976 Royal Assent	23 (among others)	N/A
System Act, R.S.B.C. 1979, c.399	September 1, 1977 Proclamation	17 (among others)	Reg. 349/77, Pt.II, V.20, p.665
Science Council Act, R.S.B.C. 1979, c.379	June 29, 1978 Royal Assent	1-17	N/A
British Columbia Transit Act, R.S.B.C. 1979, c.421	June 29, 1978 Royal Assent	1-25	N/A
College and Institute Act, R.S.B.C. 1979, c.53	October 10, 1978 Proclamation	30(8)	Reg. 463/78, Pt.II, V.21, p.1219
	December 15, 1977 Proclamation	42 (among others)	Reg. 607/77, Pt.II, V.21, p.357
Metro Transit Operating Company Act, R.S.B.C. 1979, c.257	July 31, 1979 Royal Assent	6	N/A
Employment Standards Act, S.B.C. 1980, c.10	March 14, 1981 Proclamation		Reg. 35/81, Pt.II, V.24, p.85
Metro Transit Collective Bargaining Assistance Act, S.B.C. 1984, c.33	September 14, 1984 Royal Assent	1-12	N/A

TABLE C

REGULATIONS UNDER THE INDUSTRIAL RELATIONS ACT

Effective Date	Regulation No.	B.C. Gazette References
* July 27, 1987	Industrial Relations (Voting) Regulation	Reg. 247/87, Pt.II, V.30, p.268
* July 27, 1987	Industrial Relations (Practice and Procedure) Regulation	N/A

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* Reg. 247/87 was enacted by the Lieutenant Governor in Council pursuant to Section 150 of the Act. Reg. 247/87 repealed the Labour Code Regulations, B.C. Reg. 522/73. On July 27, 1987, pursuant to Section 21(2) of the Act, and with the approval of the Minister of Labour and Consumer Services, the Industrial Relations Council made the Industrial Relations (Practice and Procedure) Regulation, which may be referred to as the Industrial Relations Council Rules.

TABLE D

STATUTES AFFECTING THE INDUSTRIAL RELATIONS ACT

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
University Act, R.S.B.C. 1979, c.419	October 7, 1977 Proclamation of S.38, Miscellaneous Statutes Amendment Act, 1977, S.B.C. 1977, c.76	80	Reg. 434/77, Pt.II, V.20, p.767